

EXHIBIT 9

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 10

From: stevea
To: jacob@globalbtg.com
Sent: 7/18/2010 11:31:35 PM
Subject: re: [FWD: Fw: Executed Global LOI]

Jacob:

Great job!!

My GreenRock info is as follows:

Steve J. Alexander
Managing Director
GreenRock Capital Company
6351 Minson Street
Suite F
Las Vegas, Nevada 89118

Office: 702-262-3993
FAX: 702-262-3997
Mobile: 702-609-5060

E-Mail: stevea@greenrockcap.com

----- Original Message -----

> From: jacob@globalbtg.com
> Sent: Sunday, July 18, 2010 4:00 PM
> To: "Steve Alexander" <stevea@hallmarktrading.com>, "Rick Jones" <RickJones@seznam.cz>, patrick@globalbtg.com
> Subject: [FWD: Fw: Executed Global LOI]
>
> All,
>
> We got it!
> See the attached executed National Air Cargo LOI.
> Rick and I have been in touch a few times today discussing our syndication bank list and are prepared to hit the phones hard tomorrow. We will keep a report that we can present to NAC over time to show our progress. Patrick will have a final version of a bank RFP completed later today which can be sent to lenders and even lessors alike to a. source bank debt and b. sell off one of more of the positions to an aircraft lessor. I typically talk to the lender first, then follow that call with an email containing the RFP. One note, as we create a list of lessors to approach to directly invest in one or more of the aircraft that Lessor must be one that can fund with their own money, i.e. Air Lease, Sky Holdings, Bank of China, Guggenheim, Investec, etc. We have the mandate and do not want any other party (potentially interested lessor) competing for debt with us in the market.
>
> Steve and Rick I need your GreenRockCap emails so I can provide all of our contact details to Don and NAC.
>
> Thanks for all your help getting us to this point. Now lets start pushing it past the finish line one aircraft at a time.
>
> Best,
>
> Jacob Hodges
>
>

> ----- Original Message -----
> Subject: Fw: Executed Global LOI
> From: dstukes@asi-advisors.com
> Date: Sun, July 18, 2010 12:32 pm
> To: jacob@globalbtg.com
>

Exhibit 359 Pg. 1 of 2
Depo of Hodges
Date 5/31/12
Xavier Mireles, CSR 5001

GLOBAL 004137

> Jacob
>
> Here it is. Pls confirm receipt. Pls counter sign and send back. I will get to Chris. I will
get a contact list out later
>
> DStukes
> Sent from my Verizon Wireless BlackBerry
>
> -----
>
> From: Glen Joerger <gjoerger@nationalaircargo.com>
> Date: Sun, 18 Jul 2010 14:54:39 -0400
> To: 'dstukes@asi-advisors.com' <dstukes@asi-advisors.com>
> Cc: Chris J. Alf <calf@nationalaircargo.com>
> Subject: Executed Global LOI
>
> Don,
> Attached is the signed Global LOI. Please work to get a fully executed copy and the
appropriate contact info. Thanks!!
> VR Glen
>
>
> Glen G. Joerger
> (813) 532-2057 Office
> (843) 324-8355 Mobile
>
> -----
>
> IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to
receive the confidential information it may contain. E-mail messages to clients of National
Air Cargo may contain information that is confidential and legally privileged and must not be
forwarded to other parties. If you have received this message in error, please forward it to
the sender and delete it completely from your computer system.

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EXHIBIT 10

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EXHIBIT 11

In The Matter Of:

GLOBAL BTG, LLC

v.

NATIONAL AIR CARGO, INC.

WEINROTH, STUART G. - Vol. 1
August 23, 2012

MERRILL CORPORATION
LegalLink, Inc. 20750 Ventura Boulevard
Suite 205
Woodland Hills, CA 91364
Phone: 818.593.2300
Fax: 818.593.2301

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1 going into detail, if there was a European bank that 10:54:19
2 had depositories and had branch offices, one of the 10:54:23
3 countries of that bank that also had depository 10:54:34
4 branches, that country's bank was used as the equity 10:54:39
5 in the transaction. 10:54:45

6 Q. I assume that these banks -- the two 10:54:52
7 banks that you talked about in Europe for these nine 10:54:54
8 airplanes, I assume they had strong balance sheets? 10:54:56

9 A. For a period of time, yes. 10:55:01

10 Q. At least as of the time they were buying 10:55:04
11 the airplanes, right? 10:55:06

12 A. Correct. 10:55:08

13 Q. And I also assume that someone like 10:55:08
14 Mr. Hodges would not be capable of filling the role of 10:55:11
15 the bank or the equity investors or anybody else in 10:55:16
16 the kind of deal that we're talking about with those 10:55:20
17 nine airplanes, right? 10:55:22

18 MR. SMITH: Form. 10:55:23

19 A. I can make an assumption. It would not 10:55:24
20 be based on fact. It would just be based on my 10:55:28
21 knowledge, but I would say no, he would not be 10:55:31
22 considered a lender for \$330 million or any major 10:55:34
23 portion of that. 10:55:39

24 Q. (BY MR. RICHMOND) Indeed, you weren't 10:55:40
25 able to pull it off yourself either, correct? 10:55:42

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1	A. Correct.	10:55:44
2	Q. You would love to have?	10:55:45
3	A. No.	10:55:47
4	Q. You were satisfied being a broker in	10:55:48
5	that one?	10:55:50
6	A. I'm satisfied accessing low-cost debt	10:55:51
7	and having -- and sharing risk and mitigating my	10:55:55
8	losses, which is standard in the industry. There are	10:56:00
9	very few lessors, whether they be finance lessors or	10:56:16
10	operating lessors, that will 100 percent finance an	10:56:19
11	aircraft long term with their own cash. They will	10:56:21
12	look to the capital markets for leverage.	10:56:26
13	Q. Your report talks about the length of	10:56:29
14	time it would take to arrange financing for these	10:56:37
15	eight airplanes, and in particular, Paragraph 3.5 of	10:56:42
16	your report, you say that consistent with industry	10:56:48
17	practice and your professional experience, that a	10:56:51
18	period of approximately 60 to 90 days from the	10:56:54
19	execution of the letter of intent or 60 days prior to	10:56:58
20	a delivery date, whichever is greater, would be a	10:57:02
21	reasonable amount of time.	10:57:04
22	Do you see that?	10:57:06
23	A. Yes, I do.	10:57:07
24	Q. Did you -- I'll try to shorten this, but	10:57:08
25	I may not be able to, so I apologize as we start down	10:57:18

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1 this path. When you wrote your report, were you aware 10:57:21
2 of or consider in any way the discussions that took 10:57:24
3 place about how much time would be needed for Global 10:57:32
4 to come up with a commitment letter? 10:57:37

5 A. Was I -- I'm sorry. Can you repeat it? 10:57:43

6 Q. Yes, I'm trying to shorten it because we 10:57:46
7 may have to go through the routine of looking at the 10:57:49
8 deposition again of Mr. Joerger, so I'm asking a more 10:57:51
9 broad question than Joerger right now. So my question 10:57:54
10 is intended to be broader. 10:57:56

11 And the question is, Mr. Weinroth, when 10:57:57
12 you were writing your report, were you aware of or did 10:58:00
13 you consider any discussions or conversations or 10:58:04
14 understandings that were reached between Global and 10:58:10
15 National with respect to how much time Global needed 10:58:12
16 to provide a commitment letter to National? 10:58:18

17 A. I don't know if it was specific to 10:58:23
18 drawing a conclusion about how much time Global was 10:58:26
19 being given, but I certainly throughout the testimony, 10:58:28
20 the exhibits and the deposition transcripts, 10:58:35
21 understood that there was a lot of discussion about 10:58:37
22 time and about deadlines and when certain things were 10:58:40
23 being asked to be delivered. 10:58:47

24 Q. I know you didn't read Mr. Joerger's 10:58:48
25 testimony before you prepared your report -- 10:58:52

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1 A. Correct.

10:58:55

2 Q. -- so my question is, were you aware

10:59:00

3 when you wrote your report that Global had indicated

10:59:02

4 to National in the negotiations before the letter of

10:59:10

5 intent was signed that it had soft commitments from

10:59:16

6 another -- a number of lenders that required only a

10:59:21

7 few days' time to turn into firm or hard commitments?

10:59:23

8 MR. SMITH: Misstates the facts.

10:59:30

9 A. I don't recall in what I read Global

10:59:32

10 saying that they had soft commitments, but I do

10:59:37

11 recollect there being conversations either between

10:59:40

12 Mr. Stukes and Mr. Hodges or Mr. Stukes and

10:59:45

13 representatives of National that there were

10:59:50

14 discussions by Global with lenders who were providing

10:59:54

15 soft commitments.

11:00:08

16 Q. (BY MR. RICHMOND) In any of the 60

11:00:10

17 transactions in which you've been involved, were there

11:00:12

18 situations where the -- I apologize. I'm going to

11:00:19

19 have to ask it just a little differently.

11:00:26

20 Mr. Weinroth, in the 60 transactions

11:00:50

21 you've talked about, in any of those transactions, to

11:00:52

22 your knowledge, did the buyer or lessor represent to

11:00:57

23 the seller or lessee that they had soft commitments

11:01:04

24 from lenders that could be turned into firm

11:01:09

25 commitments within a matter of days?

11:01:22

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1 A. The part that would be difficult to say 11:01:22
2 in my experience is the matter of days -- is the 11:01:24
3 qualifier matter of days. I think that it is my 11:01:27
4 experience that prior to entering into an LOI -- and I 11:01:32
5 think it would be accepted in the industry -- that 11:01:38
6 homework would have been done to assess the 11:01:43
7 feasibility of ultimately achieving a bankable project 11:01:46
8 and that the go-forward decision for a lessor or buyer 11:01:54
9 is do I think I can execute given the uncertainty on 11:01:58
10 this transaction. 11:02:07

11 To say -- to turn a soft commitment, if 11:02:09
12 that's what you're telling me is the fact in this 11:02:12
13 case, to turn a soft commitment into a hard commitment 11:02:16
14 in a matter of days would all depend on where that 11:02:18
15 person was, the borrower, in the process. Were they 11:02:21
16 one day out from the bank or the lender or the 11:02:28
17 investor going to investment committee? Were they 11:02:33
18 weeks out? So it's relative in time. If they were 11:02:38
19 just starting the process, to turn a soft commitment 11:02:45
20 to a hard commitment, in my mind, is nearly 11:02:47
21 impossible. 11:02:51

22 Q. Do you know when Mr. Hodges or Global 11:02:51
23 started the process, as you've just described it? 11:02:54

24 A. I don't know the exact date. 11:02:57

25 Q. Do you know approximately? 11:03:00

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1 A. I don't know a date. I can make an
2 assumption, and my assumption was it started prior to
3 the negotiation of the LOI.

4 Q. If I told you it was mid-June of 2010,
5 would that sound right to you based on what you've
6 read?

7 MR. SMITH: Misstates the facts.

8 A. I don't know the exact date, but it
9 would not be unreasonable for the process to have
10 started 30 days prior.

11 Q. (BY MR. RICHMOND) In any of the
12 materials you considered before you prepared your
13 report, did you read anything about a group called
14 GreenRock?

15 A. Yes.

16 Q. Do you have any understanding based on
17 what you did read before you prepared your report what
18 role GreenRock played, if any, in the creation of this
19 letter of intent?

20 MR. SMITH: Foundation.

21 A. I don't know what GreenRock's
22 involvement was as it relates to the creation of the
23 letter of intent, but GreenRock was certainly
24 associated in my mind -- the conclusion that I drew
25 was they were on the lessor side and affiliated with

11:03:01

11:03:03

11:03:07

11:03:10

11:03:13

11:03:17

11:03:18

11:03:19

11:03:21

11:03:24

11:03:25

11:03:50

11:03:53

11:03:59

11:04:00

11:04:01

11:04:03

11:04:05

11:04:14

11:04:14

11:04:15

11:04:18

11:04:21

11:04:25

11:04:29

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1	Global.	11:04:32
2	Q. (BY MR. RICHMOND) With that in mind	11:04:34
3	then, I'll try to not do this too much, but if you	11:04:37
4	would turn to Mr. Joerger's deposition, Page 242, and	11:04:40
5	it'll go on to 243. I'm going to be reading from	11:04:54
6	Page 242, line 4 through 243, line 9.	11:05:00
7	A. Okay.	11:05:08
8	Q. It'll be similar to the questions I've	11:05:09
9	asked you before. Mr. Weinroth, before you prepared	11:05:11
10	your report, were you aware of or did you consider the	11:05:16
11	following testimony from Mr. Glen Joerger:	11:05:19
12	"Question: Okay. What was said in that	11:05:23
13	call?	11:05:25
14	Answer: This is the first time that we	11:05:25
15	now meet GreenRock, and we talk to Steve Alexander and	11:05:27
16	Rick Jones and they start telling us what collectively	11:05:32
17	they can do. We talk about how we don't want	11:05:36
18	operating leases, we want only finance leases, time is	11:05:38
19	of the essence, we have to get a letter. We needed	11:05:42
20	several things from them. One, no operating lease.	11:05:45
21	Two, we have a JAL deal, we have to go back to Japan	11:05:48
22	and we have to explain to the bankruptcy trustee that	11:05:51
23	we have a firm commitment letter.	11:05:54
24	"They tell us that they have soft	11:05:56
25	commitments, but they need a document so that they can	11:05:58

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1	National's ability to maintain these airplanes,	11:28:30
2	National's ability to get customers, and similar	11:28:34
3	factors, and not really looking at Mr. Hodges or	11:28:36
4	Global?	11:28:40
5	MR. SMITH: Form.	11:28:40
6	A. Primarily, yes, you are correct. There	11:28:47
7	are reasons why they would want to understand what the	11:28:50
8	capabilities are of Hodges and Global as it relates to	11:28:52
9	remarketing, as it relates to other experience in the	11:28:56
10	industry, but I would in general agree with exactly	11:28:59
11	what you said.	11:29:03
12	Q. (BY MR. RICHMOND) Having said that,	11:29:04
13	don't you think there's a little inconsistency in your	11:29:30
14	rebuttal report on damages because, quite frankly, you	11:29:32
15	attack everything about National; their ability to get	11:29:37
16	any contracts, their ability to keep contracts, their	11:29:41
17	ability to make money on CRAF, their ability to make	11:29:43
18	money on ACMI? I mean you have so many criticisms of	11:29:46
19	them, it seems somewhat inconsistent with your belief	11:29:51
20	that Jacob Hodges was going to pull off this financing	11:29:54
21	all based on National, not based on him but based on	11:29:57
22	National. Doesn't that seem inconsistent to you?	11:30:00
23	MR. SMITH: Counsel, I'll remind you	11:30:03
24	nobody cares what you think, and like you told me at	11:30:05
25	the deposition of Mr. McFarlane, this type of question	11:30:07

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1	is inappropriate.	11:30:10
2	MR. RICHMOND: Well, if you'll accept	11:30:12
3	the premise that all such questions are inappropriate,	11:30:13
4	I'll withdraw mine and all yours will remain	11:30:17
5	objectionable.	11:30:20
6	Q. (BY MR. RICHMOND) So let me ask a	11:30:21
7	different question, Mr. Weinroth. Having said what	11:30:23
8	you said about what the lenders are going to look at,	11:30:25
9	do you really believe the lenders would allow Jacob	11:30:28
10	Hodges to put this deal together based on the	11:30:31
11	projections that National had for its CRAF revenues	11:30:34
12	and its ACMI revenues and how it was going to maintain	11:30:37
13	the planes and its balance sheet and all that?	11:30:41
14	A. To clarify -- and I certainly hope it	11:30:44
15	didn't come across this way in my rebuttal report, but	11:30:49
16	I didn't feel it was necessary to try to attack or	11:30:56
17	take apart National's business plan or its assumptions	11:31:00
18	or its projections.	11:31:05
19	Q. Are you serious? You think your	11:31:06
20	rebuttal report does not attack National's business	11:31:08
21	plan or its assumptions or projections?	11:31:12
22	A. Yes.	11:31:14
23	Q. Wow. Okay.	11:31:16
24	A. My rebuttal report specifically	11:31:19
25	addresses the process in which the expert witness	11:31:21

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1	have criticized them or critiqued the analysis.	11:54:12
2	But because of the impact of the present	11:54:16
3	value at 22 percent or 18 percent, the most important	11:54:19
4	cash flows are getting the assumptions right in at	11:54:22
5	least your first five years.	11:54:27
6	Q. But if from National's perspective, they	11:54:29
7	plan to use these eight airplanes for the next 20	11:54:32
8	years and as the company and the management of the	11:54:36
9	company, they're trying to project out what's going to	11:54:41
10	happen over the next 20 years, they have to make	11:54:44
11	projections of some kind, don't they, as responsible,	11:54:46
12	reasonable businessmen? Don't they have to do that?	11:54:50
13	They don't plan to own the planes for 100 days, 365	11:54:53
14	days, five years even.	11:54:56
15	A. Right.	11:54:59
16	Q. The management at National wants to own	11:54:59
17	the airplanes and have them --	11:55:02
18	A. Right.	11:55:04
19	Q. -- and they want to use them for 20	11:55:04
20	years. So isn't it reasonable for them to try to	11:55:05
21	project out for 20 years how the planes will be used	11:55:08
22	and what the CRAF program is likely to be and what	11:55:11
23	their ACMI revenue stream is likely to be and all	11:55:13
24	those kinds of things? Isn't that reasonable?	11:55:16
25	A. I'm not a member, obviously, of	11:55:23

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1	National's board, if that's within their parameters.	11:55:25
2	To me, what I thought was the most important aspect of	11:55:30
3	this transaction was do the cash flows and the	11:55:32
4	assumptions that support the cash flows provide	11:55:36
5	adequate financing for the project itself. The	11:55:40
6	objective wasn't to operate the planes necessarily	11:55:47
7	that I read in the LOI for 20 years. The objective,	11:55:51
8	as I understood it from the LOI, was to own the planes	11:55:54
9	within 24 months or own the planes at least within 72	11:56:00
10	months.	11:56:04
11	Q. And then do what with them?	11:56:05
12	A. They've acquired them. They can	11:56:08
13	continue to operate them. They can sell them.	11:56:11
14	Q. Do you have any indication anywhere that	11:56:13
15	National and its management had any desire to obtain	11:56:15
16	these planes and flip them or sell them or do anything	11:56:20
17	else other than keep them and use them as fully	11:56:22
18	utilized as they can use them for the next 20 years?	11:56:26
19	A. No, nothing gave me that indication.	11:56:29
20	Q. In trying to figure out the number of	11:56:31
21	block hours, Mr. McFarlane and his team first went to	11:56:36
22	Mr. Joerger and asked him, essentially, for his	11:56:41
23	projection of what the number of block hours was	11:56:45
24	likely to be. Was that a reasonable first step for	11:56:48
25	them to take in your view?	11:56:50

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1	A. Yes --	11:56:52
2	Q. And was --	11:56:52
3	A. -- assuming that Mr. Joerger had the	11:56:55
4	day-to-day responsibility of the CRAF program.	11:56:57
5	Q. And we'll assume that for purposes of	11:57:00
6	the question. Would a reasonable second step be to go	11:57:02
7	out into the market and try to find what I'll loosely	11:57:09
8	call comparables to see what other industry	11:57:12
9	participants' experience has been with respect to	11:57:15
10	block hours?	11:57:20
11	A. As it relates to CRAF, yes.	11:57:20
12	Q. And we'll stick with CRAF. I appreciate	11:57:23
13	that. And in looking out in the market, can you	11:57:34
14	identify any even roughly comparable industry	11:57:34
15	participants whose block hours and revenue per block	11:57:35
16	hour could provide a second source of data in	11:57:38
17	projecting out what National was likely to do?	11:57:44
18	A. Yes.	11:57:47
19	Q. And who are those?	11:57:48
20	A. Kalitta, Atlas, World, Evergreen, UPS,	11:57:49
21	FedEx, Omni, Polar.	11:58:00
22	Q. To your knowledge, is Kalitta a public	11:58:16
23	or private company?	11:58:18
24	A. I don't know.	11:58:19
25	MR. SMITH: I'm sorry. I do need the	11:58:20

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1	record to reflect he was not finished as far as I	11:58:23
2	understood.	11:58:25
3	Q. (BY MR. RICHMOND) I apologize.	11:58:26
4	MR. SMITH: Is that correct?	11:58:28
5	Q. I'm sorry. You paused long enough that	11:58:29
6	I thought you were done.	11:58:32
7	A. I was trying to go alphabetical in my	11:58:32
8	head.	11:58:36
9	Q. You started with Kalitta, so you goofed,	11:58:37
10	but go ahead.	11:58:43
11	A. Isn't it a silent A?	11:58:44
12	MR. SMITH: You were at Polar.	11:58:47
13	Q. (BY MR. RICHMOND) You said Kalitta,	11:58:48
14	Atlas, World, Evergreen, UPS, FedEx, Omni, Polar.	11:57:52
15	A. Okay. Got it. I'm done. Thank you.	11:58:52
16	MR. RICHMOND: After all that. Thanks,	11:58:55
17	Nate.	11:58:58
18	Q. (BY MR. RICHMOND) You don't know	11:58:59
19	whether Kalitta is a public or private company, so you	11:59:00
20	don't know whether their information about block hours	11:59:04
21	is even available, do you?	11:59:06
22	A. Their CRAF block hours should be	11:59:10
23	available at the -- presumably at the federal	11:59:11
24	contracting level.	11:59:14
25	Q. And how about revenue per block hour	11:59:15

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1	information?	11:59:17
2	A. That is above my experience, but I would	11:59:20
3	believe that the procurement records exist of how much	11:59:26
4	Kalitta was paid and how many block hours they flew.	11:59:32
5	Q. How about expenses per block hour?	11:59:36
6	A. No.	11:59:40
7	Q. How about overhead per block hour?	11:59:43
8	A. If there was no public record, the only	11:59:45
9	other place would be where all airlines on a monthly	11:59:48
10	basis report to the DOT their costs.	11:59:59
11	Q. With respect to the DOD records on the	12:00:02
12	CRAF program, do you have any idea how hard it is to	12:00:07
13	access their records?	12:00:11
14	A. No.	12:00:13
15	Q. With respect to the records kept by	12:00:14
16	the -- did you say it was the DOT, Department of	12:00:17
17	Transportation?	12:00:19
18	A. Yes.	12:00:20
19	Q. Do you have any idea how hard it is to	12:00:21
20	access those records?	12:00:23
21	A. An airline would have no problem	12:00:25
22	accessing those records.	12:00:27
23	Q. Of other airlines?	12:00:28
24	A. Right.	12:00:30
25	Q. And how would you do that?	12:00:30

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1	A. I didn't have the responsibility in --	12:00:32
2	either at United or Atlas for the reporting. In	12:00:40
3	general, the process is by fleet and by subfleet, you	12:00:45
4	report to the DOT all of your hours, all of your	12:00:53
5	revenue, all of your cost structure.	12:00:56
6	Q. I'm sorry. I'm going to interrupt you	12:00:59
7	because when I say how do you do that, I meant how do	12:01:02
8	you go get that and access that information about a	12:01:06
9	competitor. Not how you get it in there but how do	12:01:10
10	you get it out?	12:01:14
11	A. By computer. I remember we talked about	12:01:15
12	even at Republic whether or not we should buy the	12:01:19
13	subscription for a few thousand dollars and get access	12:01:22
14	ourselves, and we thought that it wasn't necessary.	12:01:25
15	Q. Let's turn to Atlas. Is Atlas public or	12:01:28
16	private?	12:01:31
17	A. It's now public.	12:01:31
18	Q. So its records and information about	12:01:33
19	number of block hours, record of block hours, all of	12:01:35
20	that stuff with respect to the CRAF program would be	12:01:41
21	more easily available than Kalitta's records, right?	12:01:43
22	A. If Kalitta had no public equity or	12:01:46
23	public debt, then yes, Atlas would be far more readily	12:01:49
24	accessible.	12:01:54
25	Q. And in terms of Atlas' fleet,	12:01:55

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1	specifically focusing on 747-400s, they're roughly	12:01:58
2	comparable in that respect, aren't they?	12:02:06
3	A. Atlas' 747-400 fleet is roughly	12:02:07
4	comparable to National's potential fleet --	12:02:13
5	Q. Correct.	12:02:17
6	A. -- yes.	12:02:18
7	Q. How about World? Is it public or	12:02:19
8	private?	12:02:21
9	A. I don't think they're public.	12:02:21
10	Q. And do you know whether World has a	12:02:25
11	comparable fleet of 747-400s?	12:02:30
12	A. No.	12:02:44
13	Q. I'm going to go back to Kalitta. I	12:02:45
14	forgot to ask you on that one. Do you know whether	12:02:48
15	Kalitta has a comparable fleet of 747-400s?	12:02:50
16	A. Yes. In fact, they own three of the	12:02:54
17	ones that National wanted to buy, so very comparable.	12:02:56
18	Q. Did they in 2010, at the time this	12:03:02
19	transaction was being considered?	12:03:04
20	A. At some point in 2010, they may have	12:03:09
21	acquired them, yes.	12:03:12
22	Q. But before that?	12:03:13
23	A. Before that, National was attempting to	12:03:18
24	acquire them.	12:03:22
25	Q. I'm sorry. I meant before the time that	12:03:22

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1	the difference between our educational experiences,	12:16:26
2	between myself and the Deloitte staff, but in general,	12:16:29
3	the discount rate is not what is adjusted for -- to	12:16:35
4	balance out different risks between different	12:16:43
5	projects. The adjustments go into the likelihood of	12:16:49
6	achieving the cash flows, and you try to spend your	12:16:52
7	time working on getting the best set of projected cash	12:16:55
8	flows that you think are the most reasonable, whether	12:16:58
9	it be straight-line or adjusted, and then the discount	12:17:04
10	rate is what the discount rate is relative to that two	12:17:09
11	different projects' likelihood of occurring.	12:17:18
12	Q. So your preferred method of taking	12:17:22
13	account of uncertainty is through sensitivity	12:17:25
14	analysis; is that a fair way of putting it?	12:17:30
15	A. I would say it's industry standard to	12:17:31
16	not think that you can adjust discount rate to account	12:17:34
17	for errors in your calculations.	12:17:37
18	Q. I understand what you've said, but I	12:17:40
19	want to take it to the next step. Am I right that	12:17:43
20	your preferred method -- let me ask it differently.	12:17:56
21	Mr. Weinroth, is it your belief that the	12:17:56
22	preferred method in the industry for accounting for	12:17:56
23	uncertainty is to do sensitivity analysis, especially	12:17:56
24	with respect to cash flows?	12:17:57
25	A. Yes.	12:18:00

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1	Q. And that that sensitivity analysis	12:18:01
2	approach is preferable to an approach which adjusts	12:18:04
3	the discount rate?	12:18:08
4	MR. SMITH: Form.	12:18:10
5	A. Yes.	12:18:11
6	Q. (BY MR. RICHMOND) Do you think -- in	12:18:12
7	the realm of reasonable approaches, do you believe	12:18:17
8	that adjusting the discount rate is a reasonable	12:18:20
9	approach, even if it's not the preferred approach?	12:18:22
10	A. It's a very pedestrian approach if that	12:18:29
11	is how this analysis in the report adjusts for	12:18:32
12	uncertainties in their numbers.	12:18:39
13	Q. I understand you think it's pedestrian	12:18:45
14	and not the preferred method, but even with those	12:18:47
15	qualifications, is adjusting the discount rate	12:18:49
16	nevertheless a reasonable approach to addressing	12:18:53
17	uncertainty and projections?	12:18:56
18	A. Not in my practice.	12:18:57
19	Q. So you think it's unreasonable?	12:18:59
20	A. It never has crossed my mind to do	12:19:03
21	something like that.	12:19:06
22	Q. I understand for yourself, but --	12:19:07
23	A. Isn't that what you're asking?	12:19:11
24	Q. No. Well, I was asking, but you kept	12:19:12
25	answering about industry standards.	12:19:15

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1	A. Okay.	12:19:16
2	Q. So I'll say that. Within the realm of	12:19:17
3	the whole industry and the way people approach	12:19:22
4	assessing uncertainty and projections, is it	12:19:27
5	unreasonable to adjust the discount rate to account	12:19:30
6	for those uncertainties as an approach?	12:19:33
7	A. If other people do it, it must not be	12:19:45
8	unreasonable.	12:19:48
9	Q. Let me ask you in terms of coming up	12:19:48
10	with a discount rate. Are you familiar with the term	12:19:51
11	"company-specific risk" or CSR?	12:19:56
12	A. Yes.	12:19:59
13	Q. What does that mean to you?	12:19:59
14	A. It would be an estimate when evaluating	12:20:01
15	a company's performance or its beta or using its beta	12:20:12
16	to try to figure out a way to cost its capital, trying	12:20:17
17	to add some factor that would account for differences	12:20:23
18	between company A and company B.	12:20:26
19	Q. Would your answers to my questions	12:20:37
20	change if I substituted the word "company-specific	12:20:39
21	risk" for "discount rate" in terms of that approach to	12:20:44
22	assessing uncertainty or projections --	12:20:49
23	MR. SMITH: Form.	12:20:53
24	Q. -- or would it be the same?	12:20:54
25	MR. SMITH: I apologize. Form.	12:20:56

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1	Q. (BY MR. RICHMOND) Let me ask it a	12:20:58
2	different way. I'll for once take Nate's objection.	12:20:59
3	MR. SMITH: You're getting better.	12:21:03
4	Q. (BY MR. RICHMOND) We had a whole line	12:21:08
5	of questioning about the use of discount rate as a way	12:21:09
6	of assessing uncertainty in projections, and I'm	12:21:12
7	wondering whether you view company-specific risk in	12:21:15
8	any different way as an approach to -- if you adjust	12:21:17
9	the company-specific risk as a way of approaching	12:21:22
10	uncertainty in projections.	12:21:25
11	MR. SMITH: Form.	12:21:31
12	A. I think that there -- whoever is	12:21:31
13	performing the analysis has a role to pick a number of	12:21:36
14	the discount rate, and I could argue it, whether I	12:21:41
15	believe it or not, and say it should be half a point	12:21:47
16	more or three-quarters of a basis point less. I'm not	12:21:51
17	trying to split hairs in my rebuttal.	12:21:55
18	I think to answer what I think is your	12:21:59
19	question, in selecting that discount rate to bring the	12:22:01
20	cash forward on a present value analysis, you are	12:22:05
21	trying to establish what feels like an appropriate	12:22:09
22	rate that reflects the project risk and the likelihood	12:22:14
23	of being able to execute on that project.	12:22:19
24	Q. (BY MR. RICHMOND) And --	12:22:26
25	A. So without -- it's not specific to the	12:22:28

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1 DECLARATION

2 I hereby declare I am the deponent in the
3 within matter; that I have read the foregoing
4 deposition and know the contents thereof, and I
5 declare that the same is true of my knowledge except
6 as to the matters which are therein stated upon my
7 information or belief, and as to those matters, I
8 believe it to be true.

9 I declare under the penalties of perjury of
10 the State of Colorado that the foregoing is true and
11 correct.

12 Executed on the _____ day of _____,
13 2012, at _____, Colorado.

14

15

16

17 _____
STUART G. WEINROTH

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REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, SANDRA L. BRAY, Registered Diplomat
Reporter, Certified Realtime Reporter, and Notary
Public, State of Colorado, do hereby certify that
previous to the commencement of the examination, the
said STUART G. WEINROTH was duly sworn by me to
testify to the truth in relations to the matters in
controversy between the parties hereto; that the said
deposition was taken in machine shorthand by me at the
time and place aforesaid and was thereafter reduced to
typewritten form; that the foregoing is a true
transcript of the questions asked, testimony given,
and proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my
signature this 31st of August, 2012.

My commission expires January 16, 2016.

 X Reading and Signing was requested.
 Reading and Signing was waived.
 Reading and Signing is not required.

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EXHIBIT 12

Alf, Christopher

May 24, 2012

1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

- - - - - x
GLOBAL BTG LLC, :
Plaintiff, :
vs. : Case No.
NATIONAL AIR CARGO, INC, :
Defendant/ : 2:11-CV-01657-RSWL-JCGX
Counterclaim Plaintiff, :
vs. :
GLOBAL BTG LLC, :
JACOB HODGES and DOES 1-5, :
Counterclaim Defendants.:
- - - - - x

Washington, D.C.
Thursday, May 24, 2012

Videotaped Deposition of NATIONAL AIR

CARGO, INC., through its representative, CHRISTOPHER J. ALF, and CHRISTOPHER J. ALF individually, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to notice, the witness being duly sworn by KAREN YOUNG, a Notary Public in and for the District of Columbia, taken at the offices of Perkins Coie LLP, 700 Thirteenth Street, Northwest, Washington, D.C., at 9:00 a.m. on Thursday, May 24, 2012, and the proceedings being taken down by stenotype and transcribed by KAREN YOUNG.

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Alf, Christopher

May 24, 2012

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1 1991, but since -- it was founded maybe six, eight
2 months before that. I'm not aware of the exact date.

3 Q. And have you been the president since its
4 founding?

5 A. Uh-huh.

6 Q. Yes?

7 A. Almost the whole time since the founding,
8 yeah.

9 Q. Sometimes when I say "Yes," it's just to
10 make you give a verbal response --

11 A. Okay.

12 Q. -- as opposed to uh-huh.

13 A. Okay.

14 Q. I'm not trying to --

15 A. Okay.

16 Q. -- tease you. So you've been the president
17 the entire time the company has existed?

18 A. No, for a short period I wasn't the
19 president.

20 Q. And when was that?

21 A. I'm always horrible with dates. For -- it
22 was about two years ago, it was around then, 2006, '7

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1 -- '6. I mean, it all runs together honestly.

2 There's about a year and a half period or so that I
3 wasn't president of the company.

4 Q. And why were you not president during that
5 time?

6 A. I was wrongfully debarred by the DOD, by
7 the U.S. Air Force, wrongfully, later proven that I
8 should not have been debarred.

9 Q. What is the nature of the company's
10 business?

11 A. I'm a global air freight forwarder for the
12 most part, and also we own an airline.

13 Q. And since the time the company was founded
14 in approximately 1991 up until the present, has the
15 nature of the business remained the same or has it
16 changed?

17 A. Many portions of the business are almost
18 exactly the same, but of course, over time, it
19 changes. More offices open, business develops
20 different, so yes, it's changed.

21 Q. Prior to your founding of National -- and
22 by the way, if I use the term "National," will you

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1 understand I'm referring to National Air Cargo, Inc.?

2 A. Okay.

3 Q. What was your work experience prior to
4 that, prior to founding National?

5 A. I worked for a small air freight forwarder.

6 Q. How long did you do that?

7 A. For five years.

8 Q. What was the name of that company?

9 A. Western New York Air Freight.

10 Q. And prior to that, what was your work
11 experience?

12 A. I was in college. I mean, I started, so --
13 just, you know, normal jobs you work when you're in
14 college, waiter, that kind of thing.

15 Q. In the spring of 2010, did National decide
16 to attempt to purchase some large aircrafts, some 747
17 aircrafts?

18 A. I'm not exactly sure of the dates. I mean,
19 if that's what you -- what you have there exactly. I
20 mean, if you could show me -- I mean, the date is what
21 the date is. I don't -- I don't know -- I'm not
22 exactly too sure of the date, but yes, there was a

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1 that your question started with the very beginning of
2 the process when they only were talking to Mr. Stukes.
3 By the end of the process, they had talked to Mr.
4 Hodges directly, so if your question is meant to
5 suggest -- I guess I'll say it's vague and ambiguous
6 in terms of timing. That's my objection.

7 BY MR. KULA:

8 Q. The company, whether from the start of the
9 process through the signing of the LOI with Global
10 BTG, is it true, didn't care whether it was Pearl or
11 Global as long as they could produce aviation
12 financing, correct?

13 A. At that -- at the end of it when it moved
14 its way to the process, no.

15 Q. No, you didn't -- it didn't matter?

16 A. It wouldn't matter if they produced
17 aviation financing and that they were reputable and --

18 Q. Now, back sort of -- sort of to the
19 beginning, I just want to understand, Pearl was
20 introduced to you, to the company, as we went over
21 Exhibit 87. At some point in time, was Mr. Hodges
22 introduced to you, in other words, over the phone or

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1 A. No, it was not.

2 Q. Did they ask about it again after this --
3 after this time frame, the June 25?

4 A. I believe so, yeah, there was more
5 discussions after this time frame with Japan Airlines.

6 Q. And why was it never given to them?

7 A. Because I was concerned about whether we'd
8 get the financing or not.

9 Q. And was the personal guaranty from you one
10 of the -- one of the things throughout this process
11 where you were trying to find financing and JAL was
12 asking for some evidence of financing, some showing
13 that you would be able to provide financing, was one
14 of the things that -- that JAL was asking for was this
15 personal letter of guaranty from yourself?

16 A. It would be one or the other. I mean, they
17 weren't necessarily hung up on -- if I would have had
18 a bank financing guaranty letter that, you know,
19 lacked a term sheet from a -- from a reputable
20 financial institution, then they wouldn't require any
21 personal guaranty at all.

22 Q. And if you had given your personal

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1 guaranty, they wouldn't have required the bank --

2 A. Right.

3 Q. -- you described?

4 A. It necessarily -- it was we -- we didn't
5 need both. They just want to make sure that -- they
6 had great assurance in our company, that, you know, we
7 were -- had the financial wherewithal to -- to buy the
8 aircraft and -- but it was one or the other that was
9 really required. They're looking for a firm
10 commitment that we could actually, you know, close
11 because this guy was the trust -- working for the
12 trustee and they're under their own timetable where
13 they had to liquidate these airplanes based on a sense
14 of urgency by the -- the trustee and the banks that
15 they had owed money to in Japan.

16 Q. And so throughout this process of trying to
17 find financing, the uncertainty of finding financing
18 is the reason you didn't want to give your personal
19 guaranty.

20 A. That's correct, plus if I gave my personal
21 guaranty and then I had to bridge this for the
22 meantime, I'd be quite honestly flat out of funds at

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1 that point, you know.

2 Q. Let me go back to the first page.

3 A. I'd blow through all the cash.

4 Q. The first page of this exhibit, 118?

5 A. Uh-huh.

6 Q. I'm just -- for point of reference, again,
7 there's a discussion between you and Mr. Stukes about
8 a commitment letter. At this time, do you recall
9 approaching Deutsche Bank about a commitment letter to
10 satisfy this need?

11 A. I believe, yeah, we were always working,
12 you know, with multiple lenders throughout this entire
13 process, and I would guess that Deutsche Bank was
14 definitely in the mix, and I get a little confused of
15 the date because it's so long ago, but in that general
16 time period, yes.

17 Q. Were you the principal point of contact for
18 National with Deutsche Bank in this process?

19 A. I would say so, yes.

20 Q. And who were you having contact with at
21 Deutsche Bank?

22 A. In London, the London office, I'm not --

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1 Q. Okay, so that's what I'm focused on. The
2 first page, it says, "Firstly, please set up the user
3 ID for the on-line NAC data room for Global BTG as a
4 user name and related pass code ASAP." So is this the
5 first time you recall seeing the name Global?

6 A. Yeah, I don't even recall if I read it. I
7 probably wasn't even focused on -- I mean, I don't
8 know when the first time I recall seeing Global was.

9 Q. In this time period, you weren't focused on
10 the difference between Pearl and Global?

11 A. No, no. If anything, I thought Global was
12 a part of Pearl or related to Pearl or an entity doing
13 the deal with Pearl.

14 Q. By the way, do you recall ever receiving or
15 seeing anything in writing, whether it's e-mail or a
16 hard document, from Mr. Hodges that referenced the
17 name Pearl or in any way referenced he was with Pearl?

18 A. I don't recall anything at this time, no.

19 Q. As opposed to Mr. Stukes, who did send
20 things that referenced Pearl, correct?

21 A. Yeah, absolutely, but I mean, I'm sure
22 there was probably something in the package definitely

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1 you know, that we've seen, that they just -- Goldman
2 was -- this was more straightforward, you know,
3 finance lease that -- I believe at that time the
4 interest rates -- it was a cleaner thing, less
5 entities. The interest rate was -- was better than
6 what Goldman was going to offer, and it just seemed
7 more -- it just seemed to be a smoother transaction
8 with Pearl at that point, so that's what -- we were
9 leaning that way.

10 Q. Okay, and then you end this e-mail by
11 saying, "The first JAL delivery is now going be
12 delayed to August 30, and the second sometime in
13 September." Had there been some push-back in the
14 delivery schedule with JAL at this point?

15 A. I must have a different topic because I
16 don't see that -- what you're talking about. Oh, here
17 it is, back here. Okay, you flipped back. I got you,
18 I got you. Sorry about that. You flipped back a page
19 number. The -- yeah, yeah, I seem to think I was
20 going to wait for LOIs, I'm sure they're much more
21 attractive. They -- it must have been on the phone
22 call that they gave me more attractive terms than

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1 Goldman, so that's why I wanted to go with them at
2 this point. At least I was thinking I would like to
3 go with them for -- you know, illustrate, as I made it
4 very clear in the e-mail before, we were talking about
5 financing -- finance lease, because the e-mail
6 directly before that, we're talking about operating --
7 we're not bothering with the operating lease from the
8 Pearl team.

9 Q. Okay, and then that e-mail, same e-mail,
10 the last sentence there --

11 A. Uh-huh.

12 Q. -- talks about the JAL delivery going to be
13 delayed.

14 A. Uh-huh.

15 Q. Did something happen where there was a
16 push-back or an agreement to push back delivery of JAL
17 aircraft?

18 A. Yeah, because JAL had a very difficult time
19 finding the paperwork and, you know, trying to put all
20 the pieces -- as I mentioned before, JAL -- JAL never
21 intended to really sell these aircraft. I mean, no
22 one forecasted JAL to go -- a company as powerful as

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1 JAL would one day ever go into bankruptcy. So as I
2 mentioned before, if you can't find the documentation
3 on an aircraft, it's a major deal that you can't prove
4 it, the AP story where, you know, you can't prove an
5 APU's overhauled without getting the paperwork. So
6 JAL was having a very difficult time finding all the
7 pieces of paper that backed up all the components and
8 the overhauls and the maintenance records on the
9 aircraft. They had them in bits and pieces and stored
10 all over the place and they had a very difficult time
11 finding the documents, so that was pushing back the
12 deliveries, even though the trustee was pushing for a
13 quicker turnaround.

14 Q. And would potential lenders want to see
15 those documents in order before they closed the sale?

16 A. Oh, absolutely, they wanted to make sure
17 that -- that they're not financing a bucket of bolts,
18 that it is a real -- that their collateral is sound
19 and that it's not a bucket of bolts, that it's a good
20 airplane with those records because, you know, the
21 engine values, the components, were the life cycle,
22 all those things are value to the airplane. And even

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1 if, you know, there's improvements to the airplane,
2 they call them airworthiness directives where if those
3 aren't done on the aircraft, you can't prove that they
4 were done, the airplane would instantaneously be
5 grounded until those are -- until those things get
6 done if you can't prove that there's paperwork.

7 So it gets extremely detailed and extremely
8 complicated. Everybody that ever touched that
9 airplane, you needed to have what we call the dirty
10 fingerprints, a documentation of a guy signing off any
11 repair that's done. And if a component gets removed
12 from an aircraft for overhaul, you have to take the --
13 you know, you have to sign out -- the maintenance
14 people have to sign the component, that it was removed
15 from the aircraft and it would have to get overhauled.
16 You have to have it tagged and approved that --
17 another signature that it was actually done and then
18 put back on the aircraft and then it would have to be
19 re -- signed off again as installed.

20 If you have paperwork saying it came off the
21 airplane, it got back on the aircraft, and you don't
22 have the paperwork that the thing got overhauled, that

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1 Q. And then as you referenced, the body of Mr.
2 Stukes' e-mail says, "Attached please find the LOI
3 from Jacob's firm, Global BTG."

4 A. Uh-huh.

5 Q. And then it says, "Working with GreenRock
6 Capital."

7 A. Yes, I see that.

8 Q. Did you make any inquiry of Mr. Stukes at
9 this time about Pearl?

10 A. I believe that Global BTG was part of
11 Pearl, because that's who -- what I was under
12 assumption, what I thought to believe that Mr. Hodges
13 was working for, and I figured that was part of that
14 group.

15 Q. So you didn't raise any questions to Mr.
16 Stukes about that and Pearl?

17 A. No, no, he was already at that point
18 explaining that they were working with GreenRock as
19 somebody that was going to help and assist them with
20 the obtaining of -- of getting bank financing.

21 Q. All right, and then in the body of the
22 e-mail, it says, "Jake and his team" -- "his team is

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1 correct?

2 Q. Yes.

3 A. Okay, just make sure we're on the same
4 page. I'm sorry, it's 7821?

5 Q. Yes, that's correct.

6 A. Okay.

7 Q. Okay, and you see that language I went over
8 after the word -- after the ten percent, you see where
9 -- the symbol for ten percent there?

10 A. Okay.

11 Q. The language that had been inserted in Mr.
12 Joerger's draft is no longer there?

13 A. Right.

14 Q. So that was agreed to by -- by National; is
15 that right?

16 A. Yeah, because it says number of aircraft
17 may be reduced or is agreed by the leaser and the
18 lessee, so we could agree to zero if we wanted to.

19 Q. Also in the final version, if you look at
20 page 6 or --

21 A. Yeah, it's get out of jail -- get out of --
22 whatever you want to call it, get out clauses that we

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1 used.

2 Q. And when you say get out clauses, what do
3 you mean? How would it work as a get out clause?

4 A. Well, if financing's not available, if
5 applicable financing is not available to permit
6 aircraft to be purchased, leased or financed at
7 protected price, plus or minus -- the number of
8 aircraft may be reduced and agreed to by the leaser
9 and lessee. So that's something, if he can't come up
10 with acceptable financing at these rates -- this is
11 only one steppingstone to come up with acceptable
12 finance, so financing doesn't come up as it's
13 contemplated here in this paragraph, then it's done,
14 the whole thing's done. The whole deal -- there's no
15 deal.

16 Q. In this same -- same version here then, if
17 you go to page 6 or page NAC007826 --

18 A. 7826, there you go.

19 Q. Look at the last paragraph there where it
20 says "Other," and then there's a colon and language
21 next to it?

22 A. Yes.

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1 Q. This was some language that was added as
2 part of the negotiation? Do you recall that?

3 A. Yes.

4 Q. In fact, you recall being on a phone call
5 with Mr. Hodges and others when this language was
6 discussed?

7 A. Yes, I -- yes, I was, yeah.

8 Q. And does this accurately reflect what was
9 discussed on that phone call?

10 A. Yeah, that by -- he's got to come up with
11 an MOU from a qualified lender to provide capital to
12 purchase aircraft, so he has to come up with this
13 letter by the 22nd of July, and that was our
14 understanding between Mr. Jacob Hodges and Pearl and
15 anybody else who was associated with or anybody else
16 on that phone call, that we needed to have the
17 financing by that date or the deal is done because I
18 have to go after that to Japan Airlines, and if I
19 don't have that in my hand, there is no deal to buy
20 the airplanes.

21 Q. Was there a discussion -- or was part of
22 the discussion to cover whether or not it would be

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1 possible to obtain a firm financing commitment without
2 completing due diligence and other tasks that would
3 typically go along with -- a transaction?

4 A. No, there was -- he committed that he was
5 going to -- he was going to make it happen and get us
6 the financing, and so we took off -- our foot off the
7 gas with the other lenders and you know our -- you
8 know, pull back the throttles, whichever you want --
9 we quieted down with the other guys, let him at it,
10 and he said he would be able to get us -- because
11 otherwise we're all just wasting our time.

12 If I didn't come up with the letter, we
13 shouldn't have even been writing this. I mean, the
14 whole intent of this whole thing, that's what the
15 letter of intent was for him to come up with financing
16 for us. The onus on him to do that so we could go buy
17 the airplane. If I showed up at Japan Airlines
18 without a letter in my hand, he's just moving down the
19 list. In fact, that's exactly what they did. Even
20 with Goldman Sachs at my side, when he couldn't come
21 up with letter, then I go back to Goldman Sachs and
22 they wasted a week because his terms were better, what

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1 he indicated that he could do for me. He indicated
2 that he could make this happen based on these terms
3 and conditions, and then when it wasn't there, that
4 did not -- I did not get what was required for JAL, we
5 couldn't buy the airplanes, simple as that.

6 Q. Okay, in this language that I -- I asked
7 you about, do you view any significance to the words
8 "best efforts"? It says best efforts deliver up to
9 National?

10 A. Alls I know, it was discussed on the phone
11 multiple times that -- and we were already on borrowed
12 time. If you recall back before, we clearly read the
13 e-mail from Tamuro -- Tamuro, whatever his name was,
14 Takamoto, whatever his name was at Japan Airlines,
15 they clearly said that we needed to have it by this
16 date, where is the letter, where is your firm
17 commitment letter?

18 He committed to me that he was going to come
19 up with financing by this date, and we never got it,
20 and so therefore, the thing's up. We need it by the
21 22nd of July or nothing has happened, no one gets
22 anything, we don't get airplanes, he doesn't get a --

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1 get his deal, there's no deal. I mean, that -- that
2 was a requirement of the deal, and everybody knew that
3 since day -- since day one, and we were on the
4 borrowed time. In fact, this took too long to get to
5 this point.

6 Q. On the phone call or one of these phone
7 calls, as I know you said they kind of run together --

8 A. Right, that's correct.

9 Q. Do you recall though the language of using
10 best efforts was proposed actually in the call, that
11 was language that was discussed amongst the group on
12 the call?

13 A. No, he had -- it was all understood on the
14 call that he had to make it happen by that date or
15 we're not going to buy an airplane. There is no
16 airplane to buy with the letter. You don't pass go,
17 you don't -- the whole thing stops at that point.
18 There's no second chances. It's going to take
19 something -- there's some -- something -- some guy in
20 California promised he's going to get financing from
21 you, what is JAL going to say if you're sitting there
22 at JAL? What would they say?

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1 Q. On this call that -- these calls you
2 reference --

3 A. Uh-huh.

4 Q. Do you have a recollection that the
5 specific language that's -- that's written here under
6 other on this -- in the LOI was specifically discussed
7 amongst the group and agreed to?

8 A. Yeah, that -- that on or before Thursday
9 22nd July, an MOU from a qualified lender, that's what
10 I needed, to provide capital to produce to purchase
11 aircraft under a loan and/or a finance lease. "Or" is
12 the key word there. So further to this, Global
13 pledges to deliver National a commitment letter to
14 finance one or more aircraft under an operating lease,
15 which we don't want, which at our discretion we don't
16 have to take, so --

17 Q. So my question, just to be clear is from
18 the first word "the" through the end of that paragraph
19 --

20 A. Uh-huh.

21 Q. -- the lease, do you recall that that
22 specific language was discussed and agreed to on a

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1 call?

2 A. Yeah, that he was going to make it happen
3 by that date, and he let me down, couldn't come up
4 with the money. He couldn't come up with the
5 commitment for the money. Not necessarily the money
6 per se wired that day, and JAL wasn't looking for a
7 wire that day, but they wanted something on a bank
8 letterhead saying that you can get funding to buy my
9 five airplanes, case -- you know, serial number, you
10 know, date of manufacture, that's what they're looking
11 for, that I have financing to purchase -- National Air
12 Cargo has the proper financing to purchase -- you
13 know, is -- is going to be financed, it's on Bank of
14 America's letterhead, Chase's letterhead, Pearl's
15 letterhead stating that this is what you're going to
16 have.

17 And that's -- without that letter and
18 without a letter, I would not -- specifically would be
19 able to purchase any aircraft at all. This -- this
20 isn't a promise deal. I mean -- I mean -- how do I
21 say it? This is -- I can't promise Japan Airlines
22 something in the future. They'll all get -- that was

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1 it. It's done. It's not a promise for the future
2 that we're going to get something down the road or
3 something's happen later on. This -- this 22nd date
4 was hard and fast for them, and they all knew that.

5 They absolutely knew that it was -- that --
6 that you turned into a pumpkin at midnight, you know.
7 Remember the story when you were young? You turn into
8 a pumpkin at midnight. It didn't matter that, you
9 know, what happened to Cinderella at midnight.
10 Midnight was the drop-dead date. July 22nd was the
11 drop-dead date. 23rd didn't help me. 25th didn't
12 help me. 30th didn't help me. I had to have it by
13 that night because I had to go to Japan. I'm already
14 on borrowed time with Japan Airlines, so the way I
15 look at it, you know, he didn't come up with the
16 financing. I lost the deal.

17 Q. My question really is just -- I just want
18 to confirm that the actual words here under "other" as
19 stated was agreed to by the parties in a phone call.

20 A. Absolutely, that he was going to come up
21 with -- with the letter that was required for us to
22 purchase the JAL airplane by the 22nd, which was a

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1 date that was not put in place by Chris Alf. It was
2 driven by the requirements of Japan Airlines.

3 Q. Now, if you look at the next page of that
4 document, you get to the -- the last -- the last
5 paragraph there, you had talked about -- in reference
6 to the conditions precedent earlier.

7 A. Uh-huh.

8 Q. But prior to that, there's language that
9 says a letter of intent, intent is intended as a
10 binding agreement, and it goes on and so forth, but it
11 references --

12 A. Uh-huh.

13 Q. Well, I'll just read it so -- so it's not
14 -- "This letter of intent is intended as a binding
15 agreement" --

16 A. Uh-huh.

17 Q. -- "between a lessor and lessee, who will
18 act in good faith to implement the provisions hereof,
19 complete the contemplated transactions, to negotiate
20 and execute and deliver all necessary and appropriate
21 leases and other agreements in a form and substance
22 consistent with industry standards in a timely

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1 particular day.

2 Q. In your answer, you said he started making
3 phone calls and committed with Pearl. In -- I guess
4 maybe I misheard or misrecollect. Did Mr. Hodges use
5 the term "Pearl" in any conversation you had with him?

6 MR. RICHMOND: Let me just object. That's
7 a really vague question in terms of time. Are you
8 talking about right at this particular period or
9 through the whole course of --

10 BY MR. KULA:

11 Q. At any point in time. At any point in
12 time.

13 A. Yes, in initial phone calls, he was
14 introduced as being with Pearl and he had a team with
15 Pearl, yeah, from what I remember, yes.

16 Q. Do you recall him stop using that term at
17 that point?

18 A. I -- after a while, we just -- you know,
19 you didn't repeat your name and what company you're
20 with every time. It was my assumption that he was
21 still affiliated with Pearl all the way through this
22 thing, I mean, that it never -- you know, it never

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1 stopped. After a while, you start -- you don't say
2 hey, this is Chris from National Air Cargo every time
3 you're on the phone, you know? Eventually it just
4 became this is Jacob on the phone. How you doing?
5 You know, this is -- don't even say your name. You
6 just say hey, Jacob here, you know, this is where
7 we're at with this thing, doing well, getting stuff
8 moving.

9 Q. During this process after the LOI is
10 signed, are you having -- did you have a conversation
11 with Mr. Stukes about this happening, do you recall?

12 A. Yeah, yes.

13 MR. KULA: Let's mark as 128 e-mail from --
14 again, the top e-mail's from Mr. Alf to Mr. Joerger.
15 It's NAC7969 and 7970.

16 (Exhibit No. 128
17 was marked for
18 identification.)

19 THE WITNESS: Okay.

20 BY MR. KULA:

21 Q. Okay, so do you recall continuing to talk
22 to Mr. Stukes about Goldman and DB at the time the LOI

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1 Global came in with something in the next 30 days,
2 that you still had the door open for them?

3 A. I never gave any type of time period at
4 all. I mean, sure, if somebody were to come out with
5 something out of the blue and gave us a full-blown
6 thing and it was better than any other deal, but after
7 the 22nd, I mean, everybody knew that date. So if
8 something showed up, it showed up, but there was no
9 commitment anymore after the 22nd to -- to them
10 anymore.

11 Q. But at that point, if you're going
12 exclusive with Goldman, even if -- even if National --
13 or excuse me, if you were going exclusive with Goldman
14 Sachs, even if Global came in with something, could
15 you deal with them?

16 A. No, if I had to sign an exclusive with
17 Goldman at that point, if they were to pop up with
18 something, I would have to say Goldman, talk to these
19 guys to see if it's -- if it's -- but nothing -- we're
20 talking about nothing because it never happened, so
21 you're talking about is the sky going to be purple
22 tomorrow. I mean, it's not going to be purple

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1 tomorrow. We never got anything, so it's kind of a
2 rhetorical question. It is a rhetorical question. I
3 guess that's the right word I think, rhetorical.

4 Q. So at some point Goldman is brought on,
5 correct, after -- after Goldman -- Global is
6 terminated?

7 MR. RICHMOND: It's been asked and
8 answered, Counsel.

9 MR. KULA: I'm just trying to lay some
10 foundation, Counsel.

11 MR. RICHMOND: It's late in the day. You
12 were doing pretty good for a good part of the day, but
13 you've gotten back to the bad habit of yesterday of
14 pawing through documents, kind of learning the case as
15 go during the deposition. It's 4:38, so when 5:00
16 comes, I'm going to ask you how much more do you have
17 and we're not going to stay much past that, so --

18 MR. KULA: It's good to see counsel's back
19 in form too.

20 MR. RICHMOND: What's that?

21 BY MR. KULA:

22 Q. It's good to see counsel's back in form

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1 too. So with Goldman in the fold, what happens in
2 terms of dealing with JAL in terms of trying to meet
3 the commitment, meet the requirement that JAL has?

4 A. Well, because, you know, I never gave them
5 a firm commitment at Goldman to go ahead, they never
6 got any firm financing, and at this point, I got let
7 down by Mr. Hodges when he committed to make this deal
8 happen for me and it never happened, and I never had
9 what I needed or what was the requirements of our
10 agreement to produce, I pretty much -- not pretty
11 much. I kind of went with my hat in my hand to JAL
12 and I had to tell, you know, JAL I don't have what
13 you're looking for, but Gold -- I have to guy here,
14 the Japanese -- Goldman sent their Japanese
15 representative, you know, to stand next to me in Japan
16 with the trustee, who was under tremendous pressure by
17 the Japanese government, and the trustee, this was a
18 huge political thing in Japan, that their -- their
19 pride carrier has gone into bankruptcy, and he had --
20 he had -- he had a huge responsibility as trustee to
21 testify to -- before the court that he had a bona fide
22 buyer.

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1 So alls I do is I showed up with the Goldman
2 Sachs guy because it was so late because I didn't -- I
3 -- you know, we had this date by the 22nd. Mr. Hodges
4 committed to make things happen for me and he never
5 made it happen, and I showed up and said listen, this
6 is the best I got, and respectfully, the guy -- the
7 trustee, not just the guy. He was a very, very
8 powerful guy, trustee of the entire Japan -- the
9 trustee working the deal for the Japanese government
10 and the court with a multi-billion restructuring and
11 he had ultimate authority and ultimate wherewithal to
12 make any decisions on behalf, very powerful guy in
13 Japan.

14 He just slipped down and said well, I have
15 to move on with somebody else then if you can't, you
16 know, guarantee me a letter. Let's put it this way.
17 It was a waste -- it was pretty much a wasted trip,
18 but out of respect, I went over there and told him you
19 know, it's just not going to happen because we
20 couldn't get the financing as required by our
21 agreement, which Mr. Hodges had plenty of time to work
22 and it was portrayed that yes, we're definitely going

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1 to make it happen and it never happened. So indeed,
2 the pumpkin -- it turned into a pumpkin at that point,
3 no deal, no money.

4 Q. In fact, when -- when you brought on
5 Goldman, didn't you tout that as great news to the
6 Japanese -- to the JAL representatives?

7 A. I thought so, yeah, but it wasn't -- it was
8 too -- it was too little. That -- that even having
9 Goldman there, as powerful as Goldman is, global
10 financial institution didn't matter. They were
11 looking for Goldman to have where's your letter saying
12 that you're going to finance, and at that point they
13 -- they didn't have enough time to put it together
14 because I didn't start with them until after, you
15 know, we got -- we were done on the 22nd.

16 Q. How much time was Goldman said -- said they
17 needed to put a letter together like that?

18 A. They -- they felt very positive they could
19 do it, you know, if we would have started with them a
20 lot earlier. They didn't give me a set time line, but
21 it happened in -- when we did wanted to move, it
22 happened quite quickly, a matter of weeks they could

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1 do it, but it still wasn't fast enough. They had a
2 hard -- I was already on borrowed time, as I mentioned
3 more than once, based on, you know, as of June 25th,
4 where is this? This is correct, the date?

5 Yeah, as of June 25th, that was my date. I
6 already bought a month, or nearly a month to July 22nd
7 just for JAL, so by the time -- I had to leave on July
8 -- I forget what date I actually had -- my exact
9 drop-dead date, but it was sometime around the 25th,
10 ball park, of July, that I had to have a firm letter
11 in my hand. Otherwise there was no deal. So just
12 having Goldman there, that didn't help me at all
13 either.

14 Q. So the company National had been seeking
15 finance for this purchase for a couple of months at
16 this point?

17 A. Yes.

18 Q. And --

19 A. And working with them for a couple of
20 months. Sorry to interrupt you, but yeah.

21 Q. And had retained -- well, Global was
22 retained, signed the LOI July 18th, correct?

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1 A. I believe that was the date, yeah. It's --
2 the date is what the date is, yeah.

3 Q. And then they had until July 22nd to
4 produce.

5 A. Correct.

6 Q. Correct? And they were terminated a day or
7 two after that.

8 A. Correct.

9 Q. So -- and for those four or five days,
10 you've said that -- that the company National took its
11 foot off the pedal relative to other financing.

12 A. That's correct.

13 Q. And now you're saying so afterwards,
14 because of that, the -- National could not proceed
15 with the JAL air purchases.

16 A. That's correct.

17 Q. And so those four or five days that the
18 company took its foot off the pedal was the reason
19 that it couldn't proceed with the JAL aircraft finance
20 purchases?

21 A. Well, the reason it couldn't is Mr. Hodges
22 guaranteed it, said yeah, we're going to make it

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1 happen for you guys, no problem, you know. Because
2 again, remember, it just didn't -- he didn't start
3 working the banks on that day. We had e-mails and we
4 talked about. He was working, making phone calls, had
5 guy in the Czech Republic on weeks and weeks before
6 the date of the sign -- so that was supposed to be --
7 you know, just putting ice -- icing on the cake. At
8 that point he had already made -- baked his cake
9 already and he was supposed to do the final finishing
10 touches during that -- those few days and get the deal
11 done and make stuff happen. At least that's what's
12 portrayed to us and that's what we believed.

13 Q. And how did the JAL transaction end? What
14 happened that the deal didn't proceed?

15 A. We never got the letter required to their
16 satisfaction.

17 Q. And they walked away from the deal?

18 A. They walked -- they had to walk away from
19 the deal because they were on their own time line with
20 their own trustee.

21 Q. And they looked for other source -- other
22 buyers?

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1 A. Yeah, they just moved down the list to
2 other buyers.

3 Q. Do you recall that it was actually National
4 that walked away from the JAL transaction?

5 A. Do I recall National? We couldn't do it.

6 Q. You couldn't do it in the sense you didn't
7 have financing for it?

8 A. Absolutely.

9 Q. Is that what you told JAL?

10 A. I don't recall what I told JAL.

11 Q. Was there any other reason that --

12 A. We definitely didn't have the financing.
13 That was a requirement of making it happen.

14 Q. Was there any other reason that the JAL
15 transaction did not proceed, that is, the transaction
16 between National and JAL?

17 A. Yeah, we were having difficulty with the
18 engines on the aircraft, finding -- get the exact
19 state of the readiness of the engines, so there could
20 have very well been another reason for JAL's
21 termination, or not -- not -- the deal not happening
22 or not moving forward.

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CERTIFICATE OF DEPONENT

I have read and examined the foregoing 296
pages and find the answers contained therein with
changes made by me, if any, to be true and correct.

Signature of the Witness

Subscribed and sworn to before me this
_____ day of _____, 20____.

Notary Public in and for

My Commission Expires _____.

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1 UNITED STATES OF AMERICA)

2 ss:

3 DISTRICT OF COLUMBIA)

4 I, KAREN C. YOUNG, a Notary Public within
5 and for the District of Columbia, do hereby certify
6 that the witness whose deposition is hereinbefore set
7 forth was duly sworn and that the within transcript is
8 a true record of the testimony given by such witness.

9 I further certify that I am not related to
10 any of the parties to this action by blood or marriage
11 and that I am in no way interested in the outcome of
12 this matter.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand this _____ day of _____, 20____.

15

16

17

18

19 My Commission Expires:

20 July 31, 2014

21

22

Henderson Legal Services, Inc.

202-220-4158

www.hendersonlegalservices.com

EXHIBIT 13

From: Stuart Warren
To: jacob@globalbtg.com
CC: patrick@globalbtg.com
Sent: 7/15/2010 3:37:13 PM
Subject: RE: National Air Cargo LOI

Jacob,

I think they will want a right to cancel if nothing happens within a time frame, but we can just end the letter by replacing the ";" with a period after transactions in the third line after iv in Conditions Precedent. It would be even stronger if we changed Conditions Precedent to

Binding Nature of LOI. This LOI is intended as a binding agreement between the Lessor and Lessee who will act in good faith to implement the provisions hereof, to complete the contemplated transactions and to negotiate, execute and deliver all necessary and appropriate leases and other agreements in form and substance consistent with industry standards in a timely manner.

Really the only thing being given up as a condition precedent is inspection of the aircraft and records and in a sense the onus is on them since they have to operate the equipment for 6 years and return it in an acceptable agreement and they are paying for a D check prior to delivery. So from our perspective we can make it binding. If we don't perform, based on the LOI there is not really a penalty and we have outs to adjust the lease rates. I suspect they are the ones more likely to want a time limit and an out.

Thanks.

Best regards,

Stuart

From: jacob@globalbtg.com [mailto:jacob@globalbtg.com]
Sent: Thursday, July 15, 2010 12:05 AM
To: Stuart Warren
Cc: patrick@globalbtg.com
Subject: RE: National Air Cargo LOI

Stuart,

See the attached updated LOI. I need comments from Seva on the Return condition language which I will have in the morning. The last line which is highlighted is still open for you to fill. Any way we can eliminate the right to cancel?

Jacob

----- Original Message -----

Subject: Re: National Air Cargo LOI
From: Stuart Warren <Stuart@Warren-Sklar.com>
Date: Wed, July 14, 2010 3:33 pm
To: "jacob@globalbtg.com" <jacob@globalbtg.com>
Cc: "patrick@globalbtg.com" <patrick@globalbtg.com>



GLOBAL 004441

When I get home I will look at it.

For term loan maybe it would be good to phrase it as a finance lease which is functionally equivalent to a term loan.

Sent from my iPhone

On Jul 14, 2010, at 3:14 PM, jacob@globalbtg.com wrote:

I made some comments. More to come later. NAC does not fully realize that a finance lease is in essence a term loan, fully amortizing, they own the aircraft, take depreciation, etc. For that purpose I included language about the "term loan".

----- Original Message -----

Subject: RE: National Air Cargo LOI

From: "Stuart Warren" <stuart@warren-sklar.com>

Date: Wed, July 14, 2010 2:14 pm

To: <jacob@globalbtg.com>

Cc: <patrick@globalbtg.com>

You will see I pulled out as much as possible about other people and financing terms since I think that is our business.

From: jacob@globalbtg.com [<mailto:jacob@globalbtg.com>]

Sent: Wednesday, July 14, 2010 2:06 PM

To: Stuart Warren

Cc: patrick@globalbtg.com

Subject: RE: National Air Cargo LOI

GreenRock is Steve Alexanders group in Las Vegas which I brought in to aid in sourcing debt financing for the "finance lease / term loan", and debt and equity for the operating lease.

The finance lease terms do include 26 bps for us as a fee, in addition we will collect the first months rent. In essence we will sell off to a bank 71 payments rather than the 72.

NAC at this point won't agree to operating lease only terms. They think they can obtain term loan debt financing and own 100% of all aircraft. The fact is they are not that big of a credit. A general rule of thumb in banking is that the loan cannot exceed 3x TNW (tangible net worth). Chris over the last year pulled a lot of cash/equity out of the company. They like the idea of allowing them to choose between an operating lease and a finance lease but we will withhold the detail of the bank terms from them as is customary. We only referenced the base rate in the event we need to adjust the pricing.

Jacob

----- Original Message -----

Subject: RE: National Air Cargo LOI

From: "Stuart Warren" <stuart@warren-sklar.com>

Date: Wed, July 14, 2010 1:01 pm

To: <jacob@globalbtg.com>

Cc: <patrick@globalbtg.com>

Jacob,

A couple of initial questions:

Who is GreenRock?

If they are not a party to the LOI why are they mentioned?

GLOBAL 004442

Why would we put terms of our financing in the LOI? It reads like a combination of a document you would give to potential lenders and an LOI. Lease terms I think we want to tie down but not necessarily that we will do the finance lease as a term loan and what the terms would be. For example, we could do a finance lease, finance with a loan and keep a spread for ourselves. Even if we have no residual interest it gets assets on the books or on some entity's books.

In any event, I will start reading through it shortly.

Best regards,

Stuart

From: jacob@globalbtg.com [<mailto:jacob@globalbtg.com>]

Sent: Wednesday, July 14, 2010 12:44 PM

To: stuart@warren-sklar.com

Cc: patrick@globalbtg.com

Subject: National Air Cargo LOI

Stuart,

As discussed, see the attached LOI.

If you can add or suggest language that we discussed:

1. make clear that we can assign the operating lease - we may have buyers, and would like to flip some aircraft for an immediate profit.
2. Include best efforts basis language to allow for some variation on obtainment of the purchase price and rents payments that we have presented in the LOI. I would not want the deal to be concealable if we come a few thousand dollars short of a purchase price for example.

We hope to present this to them tomorrow morning. Thanks

Jacob

<National%20Air%20Cargo%20747-400%20LOI%20%282%29[1].doc>

GLOBAL 004443

EXHIBIT 14

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 15

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 16

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 17

From: Stuart Warren
To: jacob@globalbtg.com
Sent: 7/21/2010 10:30:09 PM
Subject: RE: [FWD: Fw: Executed Global LOI]

Jacob,

A couple of quick thoughts:

1. Rather than re-do the LOI why don't we do a follow up to the LOI as a letter to them from Global.

2. We can refer to the LOI being signed on 18 July and then say that in the last 3 days we have brought in Greenrock as an equity partner, initiated contact with other equity partners and operating lessors, survey the debt and equity sources we deal with on a regular basis and can report back that

a. Subject to due diligence and negotiation of final documentation, we can commit to x aircraft on operating lease which could be closed in next -- days.

b. We have more than 10 financial institutions with capital in excess of \$ -- Billions who have expressed strong interest in financing 1 or more aircraft each so we are confident that we will have more than enough financing for balance of aircraft.

3. Obviously they will need to review latest financials, go to finance committees and issue term sheets but we expect to have these within - business days from sufficient number of lenders to fund at least 5 aircraft (or perhaps all of the aircraft).

4. Timing of closing will depend on negotiation of final terms and documentation and due diligence but should be able to move forward and complete all within 3 months or whatever is an appropriate time table.

It seems to me that this may be the quickest way and cleanest way to go. JAL is looking for as close to a commitment as we can make and so we don't need an LOI and we don't need deal details, unless they come back and ask for it but they can always attach the LOI. We describe the financial institutions but don't have to name them unless there are some you want to or need to do as examples. I take it with Guggenheim and others having interest we can commit to 2-4 operating leases and perhaps should do that. The critical thing is that even if we had term sheets from all the banks it would still take 45-60 days to put the thing together and any commitment is going to require a certain amount of due diligence and bank internal approval process.

What do you think?

Best regards,

Stuart

#4252

From: jacob@globalbtg.com [mailto:jacob@globalbtg.com]

Sent: Sunday, July 18, 2010 1:59 PM

To: Steve Alexander; Rick Jones; patrick@globalbtg.com

Cc: Stuart Warren

Subject: [FWD: Fw: Executed Global LOI]

All,

We got it!

See the attached executed National Air Cargo LOI.

Rick and I have been in touch a few times today discussing our syndication bank list and are prepared to hit the phones hard tomorrow. We will keep a report that we can present to NAC over time to show our progress. Patrick will have a final version of a bank RFP completed later today which can be sent to lenders and even lessors alike to a. source bank debt and b. sell off one of more of the positions to an aircraft lessor. I typically talk to the lender first, then follow that call with an email containing the RFP. One note, as we create a list of lessors to approach to directly invest in one or more of the aircraft that Lessor must be one that can fund with their own money, i.e. Air Lease, Sky Holdings, Bank of China, Guggenheim, Investec, etc. We have the mandate and do not want any other party (potentially interested lessor) competing for debt with us in the market.

Steve and Rick I need your GreenRockCap emails so I can provide all of our contact details to Don and NAC.

Thanks for all your help getting us to this point. Now lets start pushing it past the finish line one aircraft at a time.

Best,

Jacob Hodges

----- Original Message -----

Subject: Fw: Executed Global LOI

From: dstukes@asi-advisors.com

Date: Sun, July 18, 2010 12:32 pm

To: jacob@globalbtg.com

Jacob

Here it is. Pls confirm receipt. Pls counter sign and send back. I will get to Chris. I will get a contact list out later

DStukes

Sent from my Verizon Wireless BlackBerry

From: Glen Joerger <gjoerger@nationalaircargo.com>

Date: Sun, 18 Jul 2010 14:54:39 -0400

To: 'dstukes@asi-advisors.com' <dstukes@asi-advisors.com>

Cc: Chris J. Alf <calf@nationalaircargo.com>

Subject: Executed Global LOI

Don,

Attached is the signed Global LOI. Please work to get a fully executed copy and the appropriate contact info. Thanks!!

VR Glen

Glen G. Joerger

(813) 532-2057 Office

(843) 324-8355 Mobile

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of National Air Cargo may contain information that is confidential and legally privileged and must not be forwarded to other parties. If you have received this message in error, please forward it to the sender and delete it completely from your computer system.

EXHIBIT 17

Page 252

GLOBAL 018647

EXHIBIT 18

From: Mr. Rick Jones
To: jacob@globalbtg.com
CC: Steve Alexander
Sent: 7/17/2010 9:27:57 AM
Subject: Re: RE: National Air Cargo 747-400BCF LOI

Dear Jacob,

1. NAC objective is to secure the five 747s from JAL.
2. NAC's second objective is to obtain a finance lease.
3. NAC needs some sort of commitment to satisfy JAL by next Thursday.

I would propose the following:

1. They sign an LOI that permits us to deliver both a Op Lease and Fin Lease.
2. We line up our investor (Gugenheim) with an MOU to us for an Op Lease.
3. We go out and try to shake the trees for a lender for the fin-lease.
4. Worse case, NAC has a commitment for an op lease that they can waive in front of JAL.
5. We then proceed with the bank to obtain an fin lease.

We will need to charge NAC \$50 000 for the op lease commitment. We might have to give some of that money to our funder to issue the MOU. I don't know.

This solution would obtain for NAC the hold on the JAL planes and the time to complete purchase agreements. This would give us time to place the debt with a bank for at least the first two planes.

This is a little underhanded but seems like a win-win.

Cheers,

----- Původní zpráva -----

Od: <jacob@globalbtg.com>

Předmět: RE: National Air Cargo 747-400BCF LOI

Datum: 17.7.2010 01:04:25

Don,

The proposed changes are so materially different than when we very first talked that I must say that I don't know what the solution is at this point. We initially came in of the understanding that we could bid an op lease on 3-5 of the 747s, and that many of the aircraft were being acquired with cash.

If we are to play the sole role of an arranger, then perhaps we structure this as they do where we collect a small upfront fee, fully refundable less reasonable expenses, to put all of our resources into organizing all docs, creating an RFP etc. that can then be put out to our bank contacts to give them a look at the opportunity. Given the now short time window it will take our full combined resources.

Lessors willingly do this work for free for an airline under an op lease because if successful they buy the aircraft and enjoy the full benefit of ownership (and the risk). We support our original LOI because it provides the opportunity for us to participate in the transaction as a lessor along side the banks that we bring in to fund the finance leases.

We will continue to noodle on this over the next few hours. Please let me know if you have any additional thoughts. Please convey this message to NAC so that everyone can be of the same understanding.

Best Regards,

Jacob Hodges

----- Original Message -----

Subject: National Air Cargo 747-400BCF LOI
From: dstukes@asi-advisors.com
Date: Fri, July 16, 2010 2:28 pm
To: <jacob@globalbtg.com>

Jacob:
Got it! They are waiting for the clean LOI to sign.

Sincerely,

Donald A. Stukes
Senior Managing Director
ASI Advisors, LLC
445 Hamilton Avenue, Suite 1102
White Plains, New York 10601
Tel-(914)-358-0032
Fax-(914)-358-0033
Cell-(914)-715-1548

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On Fri 16/07/10 4:20 PM , jacob@globalbtg.com sent:

Don,

No problem. We are working down the list right now based on priority. 1. being the amortization schedules, and 2. the proposed changes to the LOI. You can always see www.greenrockcap.com for bios on Steve and Rick.

Jacob

----- Original Message -----

Subject: National Air Cargo 747-400BCF LOI
From: dstukes@asi-advisors.com
Date: Fri, July 16, 2010 1:58 pm
To: <jacob@globalbtg.com>
Cc: "Stuart Warren" <stuart@warren-sklar.com>

Jacob:

Can you please send some of the information on your bank and airline references. Chris has asked for them again. You may want to send something on Rick or Steve as I know they have references as well. This is not required but would be helpful.

Sincerely,

Donald A. Stukes
Senior Managing Director
ASI Advisors, LLC
445 Hamilton Avenue, Suite 1102
White Plains, New York 10601
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Fax-(914)-358-0033
Cell-(914)-715-1548

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On Fri 16/07/10 3:43 PM , dstukes@asi-advisors.com sent:

Jacob:

Attached please find a marked-up LOI that incorporates NAC comments. I am available all evening via my cell. Call my with any question or issues. Let's try to get this document executed tonight.

Sincerely,

Donald A. Stukes
Senior Managing Director
ASI Advisors, LLC
445 Hamilton Avenue, Suite 1102
White Plains, New York 10601
Tel-(914)-358-0032
Fax-(914)-358-0033
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Rick Jones MBA
Tel/Fax: (420) 2206 10 197
Mobile: (420) 721 369 120
Prague, Czech Republic

EXHIBIT 19

Exhibit 375 Pg. 1 of 2
Depo of Hodges
Date 5/31/12
Xavier Mireles, CSR 5001

From: dstukes@asi-advisors.com
To: jacob@globalbtg.com
CC: Stuart Warren
Sent: 7/16/2010 3:26:22 PM
Subject: National Air Cargo 747-400BCF LOI

Jacob:

Here is my feedback from the LOI. You can give me a call to discuss prior to the noon EST call, if you wish. Generally, they are positive about proceeding with the proposal.

- a) They have no interest in any of the operating leases. They want all finance leases. (This should be of no surprise)
- b) They want to know realistically how many of the 8 aircraft can you secure finance leases for?
- c) They want a better handle on timing to close on the first leases. They want to know when they could have firm commitments on the finance leases.
- d) They would like to have some references from banks and airlines.
- e) They have a question on the logistics for the "D" check.
- f) They want to know what, if any, other fees need to be paid for this deal.
- g) They want to confirm that you will in fact be able to purchase the aircraft with the debt you secure and your equity contribution.

Now be prepared for Chris to try to negotiate terms and conditions further. He will never stop. I told him until you get firmer numbers from the banks, you are in no position to negotiate rental rates and such right now. There may be some room later in the process.

Bottom line, they want to know how quickly can you move to commit to close on the transactions. They will press you on this matter.

Sincerely,

Donald A. Stukes
Senior Managing Director
ASI Advisors, LLC
445 Hamilton Avenue, Suite 1102
White Plains, New York 10601
Tel-(914)-358-0032
Fax-(914)-358-0033
Cell-(914)-715-1548

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GLOBAL 004535

person. Thank you for your cooperation.

GLOBAL 004536

EXHIBIT 20

From: dstukes@asi-advisors.com
To: jacob@globalbtg.com
Sent: 7/17/2010 12:21:47 AM
Subject: Re: National Air Cargo 747-400BCF LOI

Jacob

Before I send to NAC perhaps we should talk. They made it clear they did not want an op lease on the phone and your team was fine with arranging cap leases. What happened? Your team was going to make money on the spread. They will not consider. Op lease at this time. It may change later but for now no

DStukes

Sent from my Verizon Wireless BlackBerry

From: <jacob@globalbtg.com>
Date: Fri, 16 Jul 2010 16:04:18 -0700
To: <dstukes@asi-advisors.com>
Cc: Rick Jones<RickJones@seznam.cz>
Subject: RE: National Air Cargo 747-400BCF LOI

Don,

The proposed changes are so materially different than when we very first talked that I must say that I don't know what the solution is at this point. We initially came in of the understanding that we could bid an op lease on 3-5 of the 747s, and that many of the aircraft were being acquired with cash.

If we are to play the sole role of an arranger, then perhaps we structure this as they do where we collect a small upfront fee, fully refundable less reasonable expenses, to put all of our resources into organizing all docs, creating an RFP etc. that can then be put out to our bank contacts to give them a look at the opportunity. Given the now short time window it will take our full combined resources.

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We will continue to noodle on this over the next few hours. Please let me know if you have any additional thoughts. Please convey this message to NAC so that everyone can be of the same understanding.

Best Regards,

Jacob Hodges

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From: dstukes@asi-advisors.com
Date: Fri, July 16, 2010 2:28 pm
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Donald A. Stukes
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Don,

No problem. We are working down the list right now based on priority. 1. being the amortization schedules, and 2. the proposed changes to the LOI. You can always see www.greenrockcap.com for bios on Steve and Rick.

Jacob

----- Original Message -----

Subject: National Air Cargo 747-400BCF LOI
From: dstukes@asi-advisors.com
Date: Fri, July 16, 2010 1:58 pm
To: <jacob@globalbtg.com>
Cc: "Stuart Warren" <stuart@warren-sklar.com>

Jacob:

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Sincerely,

Donald A. Stukes
Senior Managing Director
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On Fri 16/07/10 3:43 PM , dstukes@asi-advisors.com sent:

Jacob:

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Sincerely,

Donald A. Stukes
Senior Managing Director
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EXHIBIT 21

From: Schoultz, Walter
To: jacob@globalbtg.com
Sent: 7/23/2010 11:48:02 PM
Subject: Re: NAC updated memo

Jacob,

thanks for the kind words. since the chart showing cost information is out on the data site, lenders doing their due diligence will be able to run their own calculations and determine the differential. I will go either way you want, however, for new lenders, we might just add a comment re the addition of those amounts in the financing. They are probably not a make or break on anyone's decision. Other option is to show it in the cost chart and gross that up. Let me know.

On final completion, I will prepare two memos for distribution as you describe. I have completed the section re the legal suite and the one major section I have to complete is the financial analysis. Due to time constraints, I will have to keep that rather simple and will be working on it this evening and tomorrow.

I will be sending out a list of open items to Brian Conaway shortly. Brian has given me contact info for over the weekend, however, he is relying on Glen Joerger for completion of some items (I know he has been busy). I will be copying you Rick and Steve on the email. Feel free to give any appropriate party a gentle prod.

Regards,

Walt

On Fri, Jul 23, 2010 at 4:01 PM, <jacob@globalbtg.com> wrote:
Walt,

The write up is exceptional and will be a tremendous value to us once it is complete and formatted such that we can send it out to our lenders.

Due to the urgency of the project we were not afforded the luxury of delaying our RFP and we had to go with what we had. All of the lenders we have talked with have that original RFP therefor it is my recommendation that your document be a stand alone NAC Transaction Summary / Credit overview document. This could be done by taking out the first several pages which were merged from that RFP. Or we have 2 versions; the first as you have it with all the terms etc. - to be distributed to all new lenders we talk to from this point forward, and the second as I described above - to be distributed to all lenders that already have the RFP.

I would advise that we pull all reference to price paid as well. This will allow us to distribute the doc to a broader audience including the investors that want to buy one or more of the lease encumbered 747s subject to the operating lease. FYI; the difference between price paid and loan amount request is \$2.5MM per aircraft which is part of the \$3.5MM cost of the "D" check. On a finance lease we are attempting to get some of the cost back for NAC. On the operating lease we will get all of it back plus a mark up of \$1MM + per aircraft.

Overall it's great work - thank you and see my contact details below. I simply did not have time to respond to your earlier email because I have literally been on the phone night and day like Rick.

Best,

Jacob Hodges
Managing Director
Global BTG (Big Ticket Group)
Los Angeles, CA

Phone: +1 805-405-9211

Email: jacob@globalbtg.com

----- Original Message -----

Subject: NAC updated memo

From: "Schoultz, Walter" <walt.schoultz@greenrockcap.com>

Date: Fri, July 23, 2010 10:24 am

To: Steve Alexander <stevea@greenrockcap.com>, Rick Jones
<rick.jones@greenrockcap.com>, jacob@globalbtg.com

I have edited the sections I previously sent to you. toss the last version.

EXHIBIT 22

From: jacob@globalbtg.com
To: Schoultz, Walter
CC: Rick Jones; Steve Alexander
Sent: 7/27/2010 6:23:37 AM
Subject: RE: NAC memo

Walt,

Perfect write up. I have have two requests on the doc titled: National Air Cargo Descriptive.memo.pdf
Page 1: replace Request for Proposal with Transaction Summary, and delete "Financing of up to" and simply leave the following: 8 Boeing 747-400BCF Aircraft.

Page 20: Appendix III: Can you delete the Loan amount section on the 747s and the entire 757 section. This write is will primarily be going out to the investors that we are in discussions with about acquiring the aircraft (Lessor has assignment rights) and the lenders that already have the original RFP. The investors are paying an amount above the loan amount so to include it would create a problem that would have to be explained. We hope to be able to do a SLB on the 757s at a future point in time as well so I would not want to inform the full aviation community of the financial detail of the 757s. The airline may object as well. thanks.

Jacob

----- Original Message -----

Subject: NAC memo

From: "Schoultz, Walter" <walt.schoultz@greenrockcap.com>

Date: Mon, July 26, 2010 7:00 pm

To: Rick Jones <rick.jones@greenrockcap.com>, Jacob Hodges

<jacob@globalbtg.com>, Steve Alexander <stevea@greenrockcap.com>

Attached are two versions of the memo. The one with "Descriptive" in the title does not have a term sheet. Rather than walk through all the shortfalls of the memo, please simply note:

Page 3 of the full memo: Listed National Leasing LLC as borrower.

Removed all references to the price of the aircraft. In the Appendix III page 23 substituted the loan amount for the price.

Please read prior to distribution as I would appreciate one last check

EXHIBIT 23

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 24

From: Stuart Warren <stuart@warren-sklar.com>

To: globalbtg <globalbtg@aol.com>

Subject: RE: Global BTG

Date: Mon, Jul 19, 2010 6:41 pm

Attachments: Redacted

Redacted

Thanks.

Best regards,

Stuart

PS I have alerted Sklar's office about filing the organization papers for Global BTG and we should get it done tomorrow or Wednesday at the latest.

From: globalbtg@aol.com [mailto:globalbtg@aol.com]

Sent: Thursday, July 08, 2010 11:53 PM

To: stuart@warren-sklar.com

Subject: Global BTG

Stuart,

Redacted

2. I need to reserve the name Global BTG, LLC and set up the single member LLC with me as the owner/managing director. Can you tell me cost wise what I should expect to pay. I will have the details for you tomorrow for the NV registered agent.

Best,

Jacob Hodges

EXHIBIT 25

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 26

From: Stuart Warren <stuart@warren-sklar.com>

To: globalbtg <globalbtg@aol.com>

Subject: RE: NDA

Date: Tue, Jul 20, 2010 11:34 am

Redacted

Also, the Nevada filing should be made today and Global BTG LLC should be in existence as of today or the latest tomorrow.

Redacted

EXHIBIT 27

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 28

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 29

From: CJ Lorio
To: 'jacob@globalbtg.com'
Sent: 7/27/2010 9:05:35 AM
Subject: Re: 747-400F Lease terms

The terms proposed in the RFP do not work for us economically. Let me know if the company wants to revisit.
CJ Lorio

Sent from my BlackBerry Wireless Handheld

From: jacob@globalbtg.com <jacob@globalbtg.com>
To: CJ Lorio
Cc: tcorley@aerolease.com <tcorley@aerolease.com>; jep@aerolease.com <jep@aerolease.com>
Sent: Tue Jul 27 01:42:40 2010
Subject: RE: 747-400F Lease terms

CJ,

The terms that you have provided below do fall outside of the terms and conditions that National has agreed upon in our LOI executed on July 18th which are summarized in the RFP for the sale of the aircraft. The two major differences are the rent and subsequent LRF and the deposit. Our LRF is on average 1.34%, whereas your LRF is 1.56%. As a result, National has said that the terms are not acceptable to them at this time.

A proposal based on the terms of the RFP would conform to the LOI completely and as such would be found acceptable. Please re-consider your pricing. I'm available anytime you would like to discuss in more detail.

Best Regards,

Jacob Hodges

----- Original Message -----

Subject: Re: 747-400F Lease terms
From: CJ Lorio <CJ.Lorio@pgrp.net>
Date: Fri, July 23, 2010 7:08 pm
To: "'jacob@globalbtg.com'" <jacob@globalbtg.com>

Ok. Thanks
CJ Lorio

Sent from my BlackBerry Wireless Handheld



From: jacob@globalbtg.com <jacob@globalbtg.com>
To: CJ Lorio
Cc: 'tcorley@aerolease.com' <tcorley@aerolease.com>; Jep Thornton <jep@aerolease.com>
Sent: Fri Jul 23 20:45:39 2010
Subject: RE: 747-400F Lease terms

CJ,

I have forwarded your proposal to National for consideration including to Don Stukes their adviser and Chris Alf the Chairman/sole owner. Chris just came back into town today from the Farnborough airshow but I am certain they will give it their full and undivided attention.

Sincerely,

GLOBAL 004169

Jacob Hodges
Managing Director
Global BTG (Big Ticket Group)
Los Angeles, CA
Phone: +1 805-405-9211
Email: jacob@globalbtg.com

----- Original Message -----

Subject: 747-400F Lease terms
From: CJ Lorio <CJ.Lorio@pgrp.net>
Date: Fri, July 23, 2010 3:23 pm
To: "jacob@globalbtg.com" <jacob@globalbtg.com>
Cc: "tcorley@aerolease.com" <tcorley@aerolease.com>, Jep Thornton
<jep@aerolease.com>

Jacob,

In response to your request, PEPI Capital would consider the following general terms on acquiring a Boeing 747-400F aircraft and initiating an operating lease with National Air Cargo. This is based solely on the information you have provided me regarding National's solicitation of financing on the eight 747-400F aircraft, and not any detailed due diligence on the assets or National. The terms would basically be along the lines of the operating lease terms described, except as follows:

- Based on lessor investment of actual contracted purchase price plus necessary aircraft and engine maintenance to place into service, up to \$45 million. We can either step into National's contract, do a separate contract, or acquire from National after its acquisition
- Term – 72 months, however 84 months if an aircraft has a near term D check scheduled, such as MSN 26344
- Deposit – 3 months rent, reducing to two months rent with on-time payment performance over the first twelve months of lease
- Monthly Rent - \$700,000 (can be adjusted if lessor investment is greater than or less than \$45 million)
- Lessee purchase option – none
- Subject to financing – no, but if we do two or more aircraft we may want additional venture partners.
- Due diligence – acquisition and lease would be subject to due diligence on National and aircraft/engines to our satisfaction, including its business plan, ownership/management, financial condition (including review of audited financials), participation in CRAF, certification to operate subject aircraft, maintenance processes and agreements, engine borescopes, review of all engine and aircraft records, inspections, and other due diligence typical of this type transaction

If these general terms are acceptable to National, we can follow up with a letter National can use to demonstrate to JAL that it has identified resources for an aircraft transaction to close and then move quickly to a lease and purchase agreements, inspections, detailed due diligence, etc.

As stated to you before, we and Aerolease are experienced freighter lessors, have capital to close the transaction in timely fashion, and also have an interest in any 757 aircraft for which National may wish to explore a leasing transaction. We have closed on nine aircraft in the last few months alone and have experience in dealing with distressed assets and managing conversions.

Feel free to contact me with questions. I am out of country, but available, next week.

Regards,

C.J. Lorio
Perot Investments
972-535-1972
972-535-1991 (fax)

GLOBAL 004170

EXHIBIT 30

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

GLOBAL BTG, LLC,)	CERTIFIED COPY
)	
Plaintiff,)	
)	
VS.)	CASE NO. 2:11-CV-0167
)	
NATIONAL AIR CARGO,)	CONFIDENTIAL
)	
Defendant.)	

- CONFIDENTIAL -

VIDEOTAPED ORAL DEPOSITION OF

CHARLES JOSEPH LORIO

MAY 30, 2012

On the 30th day of May, 2012, at 9:00 a.m., the videotaped oral deposition of the above-named witness was taken at the instance of the Defendant, National Air Cargo, before Michelle L. Munroe, Certified Shorthand Reporter in and for the State of Texas, at Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas, pursuant to Notice and the agreement hereinafter set forth.

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1	timing involved with presenting a letter to JAL?	10:31:19
2	A. He may have. I don't have any specific	10:31:23
3	recollection on it, though.	10:31:28
4	Q. Is it fair to say that as a part of this	10:31:31
5	proposed transaction, Mr. Hodges was seeking to get a	10:31:44
6	letter from Perot to present to National?	10:31:46
7	A. Well, yes --	10:31:50
8	MR. SMITH: Objection; form.	10:31:51
9	A. -- it's evident in the e-mails that, you know,	10:31:52
10	they were looking to see if we could provide some sort	10:31:53
11	of commitment letter with the indication being that if	10:31:55
12	we could do that quickly, you know, we would be able to	10:31:58
13	perhaps get these lease terms that we were interested	10:32:01
14	in.	10:32:03
15	Q. And it's fair --	10:32:04
16	MR. SMITH: Foundation.	10:32:04
17	I apologize.	10:32:06
18	Q. And it's fair to say that on July 23rd, you	10:32:06
19	were not willing to write that type of commitment	10:32:09
20	letter?	10:32:11
21	A. I wasn't going to write any kind of commitment	10:32:13
22	letter unless the terms were agreed to between us and	10:32:18
23	National, and any commitment letter that we did would	10:32:21
24	have a lot of subjects to it.	10:32:23
25	Q. And so the answer to my question -- my	10:32:26

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1 question is whether it's fair to say that on July 23rd, 10:32:30
2 Perot was not in a position to write any such commitment 10:32:33
3 letter; is that correct? 10:32:37

4 A. That's correct, we were not in a position to 10:32:38
5 write the commitment letter at that time. 10:32:40

6 Q. Is it fair to say that if you were going to 10:32:44
7 write a commitment letter, the commitment letter would 10:32:46
8 be based on the terms set forth here in this proposal? 10:32:49

9 A. Yes. 10:32:52

10 Q. Is it your testimony that you would not be 10:32:53
11 willing to write a commitment letter which would have 10:32:55
12 included a -- lease rates that are set forth in the RFP 10:32:58
13 issued to you on July 23rd that we just looked at that's 10:33:04
14 Exhibit 404? 10:33:09

15 MR. SMITH: I think it's asked and 10:33:13
16 answered. He said he wasn't ready to write a commitment 10:33:15
17 letter. 10:33:17

18 A. Let me make sure I understand the question. 10:33:18
19 If we wrote a commitment letter, would it have the lease 10:33:20
20 rates -- I think it would -- it would have the language 10:33:25
21 as I outlined in the this proposal, which was \$700,000 a 10:33:28
22 month, you know, adjusted, you know, up or down, you 10:33:32
23 know, with respect to the \$45 million assumed investment 10:33:37
24 in the plane. 10:33:40

25 Q. So it's fair to say you didn't contemplate 10:33:42

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1	writing a commitment letter which would specify the	10:33:45
2	rental rates set forth in the RFP; is that correct?	10:33:48
3	A. No, not tied to those rental rates.	10:33:51
4	Q. And it's fair to say that you didn't	10:33:54
5	contemplate writing a commitment letter which would	10:33:55
6	include a purchase option for an operating lease as set	10:33:58
7	forward in the July 23rd RFP?	10:34:01
8	A. That's correct.	10:34:03
9	Q. And is it fair to say that you're -- you would	10:34:03
10	not consider writing a commitment letter for a pure	10:34:06
11	finance lease rather than an operating lease for the	10:34:14
12	aircraft the subject of the July 23rd RFP?	10:34:17
13	A. That's correct.	10:34:20
14	(Exhibit 407 marked.)	10:35:11
15	Q. I'm going to give you now what has been marked	10:35:14
16	as -- we'll mark as Exhibit 407.	10:35:18
17	Mr. Lorio, do you have any recollection of how	10:35:27
18	Mr. Hodges responded to your July 23rd proposal?	10:35:33
19	A. Well, I'll -- I mean, you know, looking at	10:35:39
20	this e-mail, I mean, I think he presented our proposal	10:35:42
21	to National for their consideration and that, you know,	10:35:46
22	National came back and said that, you know, they didn't	10:35:54
23	want to -- they were not interested in those terms.	10:35:56
24	Q. And just so the record is clear, you're	10:35:59
25	referring to the -- Exhibit 407?	10:36:02

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1 this was the spring of 2011 when Jacob Hodges talked to 10:51:44
2 you about this case. 10:51:49

3 Do you remember whether there were multiple 10:51:50
4 conversations or just one? 10:51:52

5 A. I don't recall specifically, you know. I 10:51:54
6 think looking back the documents, we probably had a 10:51:57
7 conversation at a conference and then he followed it up 10:52:00
8 with sending me an e-mail with an affidavit. 10:52:04

9 Q. And do you -- do you remember reviewing the 10:52:07
10 affidavit -- draft affidavit? 10:52:12

11 A. Yes, I remember, you know, looking at it. 10:52:15

12 Q. Do you remember what your view was of the -- 10:52:20
13 the declaration? Sorry. 10:52:23

14 A. Yeah. I didn't look at it very specifically. 10:52:27
15 I talked to my general counsel, Dave Radunsky, about it 10:52:29
16 as to whether we wanted to get into that, you know, 10:52:34
17 affidavit or not, the specifics of it. 10:52:37

18 MR. GOLD: I want to caution the witness 10:52:39
19 not to disclose the content of your communications 10:52:41
20 with -- 10:52:45

21 THE WITNESS: Right. 10:52:45

22 MR. GOLD: -- with your -- with your 10:52:46
23 counsel. 10:52:47

24 Q. Just so the record is clear, I -- I was not 10:52:47
25 asking for any -- any kind of communication you had with 10:52:51

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1 your counsel about whether you should or shouldn't sign 10:52:55
2 this declaration. 10:52:58

3 I'm going to show you what we'll mark as 10:53:14
4 Exhibit 409. I'll represent for the record that this is 10:53:17
5 a cover e-mail attaching what appears to be a draft 10:53:39
6 declaration of C.J. Lorio. The cover page is Bates 10:53:42
7 labeled Petrus 000144. It runs through 00147. 10:53:46

8 Mr. Lorio, if you could just take a minute and 10:53:57
9 look through the cover e-mail and the document and let 10:53:59
10 me know if this looks familiar to you. 10:54:02

11 (Exhibit 409 marked.) 10:53:11

12 A. (Reviewed document.) Yes. 10:54:05

13 Q. And what is it? 10:54:11

14 A. Well, it's an e-mail from Jacob Hodges asking 10:54:14
15 me to review a draft of an affidavit he was interested 10:54:18
16 in having us execute or at least review and -- to put it 10:54:23
17 in the form that we would be willing to execute. And it 10:54:31
18 includes the draft affidavit -- or declaration. 10:54:34

19 Q. Do you know who drafted this declaration? 10:54:42

20 A. I do not specifically no. It was provided to 10:54:45
21 me by Jacob Hodges. 10:54:48

22 Q. The cover e-mail mentions a conversation 10:54:50
23 between you and Jacob Hodges at ISTAT? 10:55:01

24 A. Uh-huh. 10:55:04

25 Q. Can you tell me what ISTAT is? 10:55:06

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1 A. ISTAT is an industry trading group. It's 10:55:08
2 International Society of Transport Aircraft and Trading 10:55:12
3 I think is what it stands for. And they hold several 10:55:16
4 conferences during the year, and we met at one of those 10:55:19
5 conferences. 10:55:23

6 Q. When Mr. Hodges talked to you about -- at 10:55:23
7 ISTAT about completing a declaration, did he say why he 10:55:28
8 wanted a declaration? 10:55:34

9 A. I don't -- I don't recall the specific 10:55:37
10 conversation we had at ISTAT. If we talked about it, I 10:55:43
11 don't recall exactly what we talked about at ISTAT. 10:55:48

12 Q. So you -- you don't have any recollection of 10:55:52
13 Mr. Hodges specifically asking you, you know, hey, will 10:55:56
14 you complete a declaration if I send it over? 10:56:00

15 A. Right. I don't -- I don't recall. Apparently 10:56:03
16 maybe -- maybe we did, but I don't specifically recall 10:56:06
17 that conversation. 10:56:08

18 Q. The cover e-mail, Mr. Hodges says he's asking 10:56:10
19 for you to tell your version of those events. Do you 10:56:18
20 see that? It's line 3 of the second paragraph. 10:56:22

21 A. Okay. 10:56:26

22 Q. So I'll just have you turn the page to the 10:56:27
23 declaration, and we'll go through it and see if it's 10:56:31
24 consistent with your -- your view of what -- if the 10:56:33
25 facts are consistent with what transpired in the summer 10:56:38

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1 of 2010.

10:56:42

2 The first paragraph, do you have any reason to
3 believe that this is not an accurate reflection of -- or
4 accurate statement of the facts?

10:56:44

10:56:50

10:56:55

5 A. Well, I am C.J. Lorio and I'm a private
6 investment analyst. I mean, with respect to the
7 statement about the facts set forth herein, you know, I
8 can't attest to that.

10:56:58

10:57:01

10:57:03

10:57:07

9 Q. Is it true that Perot Investments is an
10 open-end investment funds company with a principal place
11 of business in Plano, Texas?

10:57:12

10:57:15

10:57:18

12 A. No.

10:57:19

13 Q. Why --

10:57:20

14 A. I don't -- I don't know what an open-end
15 investment fund is or an open-end investment fund
16 company. I'm not sure exactly what that means. I mean,
17 we -- as I said, we're an investment adviser to the
18 Perot family, and we do office in Plano, Texas.

10:57:22

10:57:25

10:57:28

10:57:32

10:57:36

19 Q. Do you have unlimited funds?

10:57:40

20 A. No, we don't.

10:57:42

21 Q. Is it true that in your role at Perot
22 Investments, you source, analyze, close and monitor
23 private investment opportunities, focusing on private
24 finance and special situations, including bankruptcy,
25 debtor-in-possession financing, bridge financing and

10:57:47

10:58:09

10:57:52

10:57:54

10:57:57

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1	other distressed opportunities?	10:57:59
2	A. Yeah, that's -- that's correct. It includes	10:58:02
3	those opportunities and others.	10:58:07
4	Q. Is it true that you focus on the financing of	10:58:10
5	commercial aviation assets, including equipment trading,	10:58:15
6	part-out and aircraft leasing?	10:58:18
7	A. Yes.	10:58:20
8	Q. Paragraph 4, is it accurate that you and	10:58:33
9	Mr. Hodges had worked together in the past and he	10:58:40
10	routinely presented you with commercial aircraft to be	10:58:43
11	acquired or financed?	10:58:46
12	A. I don't know what he means -- what this means	10:58:48
13	by saying we have worked together in the past and we	10:58:53
14	haven't worked together. He had shown me some	10:58:56
15	investment opportunities or aircraft opportunities in	10:58:59
16	the past, but I wouldn't say we worked together.	10:59:00
17	Q. And -- and you testified earlier that those	10:59:04
18	opportunities he presented to you, none of them you	10:59:09
19	accepted?	10:59:13
20	A. Yeah. Prior to this, I only recall one other	10:59:13
21	opportunity that he showed us.	10:59:17
22	Q. And you declined that opportunity?	10:59:20
23	A. Yes.	10:59:21
24	Q. Is paragraph 5 accurate?	10:59:22
25	A. Well, I can't speak for Aerolease. Aerolease	10:59:38

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1 is a partner of ours. You know, I -- I knew that 10:59:52
2 National Air is -- is an airline that operated out 10:59:58
3 there. And I think my partners told me that they had -- 11:00:05
4 you know, they knew Preston Murray, you know, from 11:00:08
5 some -- from some prior, you know, transaction. 11:00:11

6 Q. So let's look at paragraph 6. This says in 11:00:21
7 July 2010 you were contacted by Global BTG and Jacob 11:00:27
8 Hodges concerning an opportunity for Perot Investments 11:00:30
9 to purchase from Global BTG up to five 747 aircraft 11:00:33
10 subject to operating leases to National Air Cargo. 11:00:42

11 Does that seem accurate to you? 11:00:46

12 A. Not specifically. I mean, I'm not sure if -- 11:00:49
13 you know, I think the discussions of the transaction 11:00:53
14 were somewhat fluid in how they exactly would be 11:00:59
15 structured as to whether we'd be acquiring from -- you 11:01:02
16 know, the aircraft from the sellers or from National or 11:01:04
17 from Global. 11:01:08

18 You know, I think some of the traffic 11:01:10
19 indicates that they were still a little bit up in the 11:01:12
20 air as to exactly how the transaction would be 11:01:15
21 structured. 11:01:18

22 Q. And what about the number of aircraft listed 11:01:19
23 in -- paragraph 6 mentions up to five aircraft. 11:01:22

24 Does that seem consistent with your 11:01:25
25 recollection of -- 11:01:26

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1	A. No.	11:01:27
2	Q. -- the events?	11:01:27
3	Why not?	11:01:28
4	A. Because we always indicated that we were	11:01:29
5	interested in, you know, one, maybe two aircraft.	11:01:32
6	Q. And this -- paragraph 6 says up to five	11:01:37
7	aircraft.	11:01:42
8	Do you remember -- if we look back at the	11:01:46
9	RFP's, I guess, it's Exhibit 401 and 404, did those	11:01:47
10	RFP's mention up to five aircraft?	11:01:52
11	A. I don't recall that they did. I think one	11:01:56
12	mentioned eight and the other one mentioned seven.	11:01:59
13	Q. Do you know why Mr. Hodges would say five --	11:02:02
14	up to five aircraft?	11:02:10
15	MR. SMITH: Foundation.	11:02:11
16	A. No.	11:02:12
17	Q. And paragraph 6 says that Mr. Hodges	11:02:13
18	transmitted to you a request for proposal that described	11:02:19
19	the proposed transaction, including purchase prices for	11:02:22
20	each aircraft and rental rates for each aircraft.	11:02:27
21	Did Mr. Hodges transmit to you any RFP's other	11:02:31
22	than the ones we have looked at here today?	11:02:36
23	MR. SMITH: Foundation.	11:02:39
24	A. I don't know. These are the ones that I have	11:02:42
25	that were -- that were transmitted to me. If there were	11:02:45

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1	others, I don't have them.	11:02:47
2	Q. Okay. And just to remind you, you're here	11:02:48
3	testifying on behalf of Perot Investments?	11:02:52
4	A. Yes.	11:02:54
5	Q. Is there any reason you could imagine why you	11:02:54
6	wouldn't be aware of proposals that had been transmitted	11:02:58
7	to Perot by Jacob Hodges specific to the National Air	11:03:02
8	Cargo deal?	11:03:05
9	A. No, they would have gone to me.	11:03:05
10	Q. Let's look at paragraph 7. The first sentence	11:03:07
11	says that you reviewed the request for proposal and	11:03:19
12	determined that the proposal presented a good	11:03:23
13	opportunity for Perot Investments and one of your	11:03:25
14	partners, Aerolease Aviation.	11:03:28
15	Is that accurate?	11:03:30
16	A. I wouldn't say that's accurate.	11:03:32
17	Q. And why not?	11:03:35
18	A. The -- well, as we have discussed, the	11:03:36
19	proposals, the lease structures, you know, that were in	11:03:41
20	here, you know, were -- had -- had deal terms that we	11:03:44
21	weren't interested in. We thought there might be an	11:03:49
22	opportunity to create, you know, an opportunity we would	11:03:51
23	be interested in though.	11:03:55
24	Q. Is this description of Aerolease in the second	11:03:56
25	paragraph accurate? It reads, Aerolease Aviation is	11:04:06

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1 known to you as an experienced and successful buyer, 11:04:08
2 seller and lessor of commercial aircraft worldwide? 11:04:13

3 A. Yes. 11:04:15

4 Q. Let's move to paragraph 8. Paragraph 8 refers 11:04:16
5 to an attachment as Exhibit A, a copy of an informal, 11:04:25
6 nonbinding term sheet that you sent as an e-mail to 11:04:31
7 Jacob Hodges on Friday July 23, 2010. The exhibit as -- 11:04:35
8 or this document as it was produced to us didn't include 11:04:42
9 an Exhibit A. 11:04:45

10 Do you remember seeing an Exhibit A? 11:04:47

11 A. I don't remember seeing an Exhibit A, you 11:04:48
12 know, with this. 11:04:55

13 Q. Did you -- did you draft a nonbinding term 11:04:56
14 sheet to Jacob Hodges and transmit it on July 23, 2010? 11:05:03

15 A. No, we did not do a term sheet. 11:05:07

16 Q. We saw earlier that you submitted an e-mail to 11:05:09
17 him on July 23rd. It's Exhibit 404 -- no, sorry. It's 11:05:12
18 Exhibit 406. 11:05:23

19 Do you have that in front of you? 11:05:24

20 A. Yes. 11:05:25

21 Q. Does -- does this look like a term sheet to 11:05:25
22 you? 11:05:30

23 A. No, it's not a term sheet. 11:05:31

24 Q. Do you remember submitting any other kind of 11:05:32
25 proposal to Mr. Hodges on the 23rd of July? 11:05:40

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1	A. No.	11:05:42
2	Q. Were you authorized by Perot to kind of	11:05:43
3	transmit the proposal that's listed in 406 to	11:05:52
4	Mr. Hodges?	11:05:57
5	A. Yes.	11:05:57
6	Q. At the time you submitted this sheet that's	11:06:01
7	marked as Exhibit 406 -- this e-mail that has been	11:06:06
8	marked as 406 to Mr. Hodges, did Perot Investments and	11:06:09
9	Aerolease Aviation have enough capital to close the	11:06:16
10	transaction on or before November 30th?	11:06:19
11	A. We could have closed a transaction for one	11:06:24
12	airplane in that timeframe.	11:06:30
13	Q. It's your -- your testimony today that you --	11:06:37
14	Perot Investments would only be willing to close an	11:06:42
15	airplane subject to the terms set forth in Exhibit 406?	11:06:45
16	A. Yes. Exhibit 406 has the general outlines of	11:06:50
17	terms that we would be interested in.	11:06:56
18	Q. Do you have a view as to the accuracy of	11:06:58
19	paragraph 10 of the declaration that's on page	11:07:12
20	Petrus 00146?	11:07:17
21	A. Well, first, you know, we did not have a term	11:07:20
22	sheet. And I can't say that it was more likely than not	11:07:23
23	that -- that, you know, we would have come to binding	11:07:31
24	terms.	11:07:33
25	Q. Why not?	11:07:36

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1 A. Well, because I don't -- I don't know that, 11:07:37
2 you know, National, you know, would have agreed to what 11:07:41
3 we would have agreed to. And even if they had, I'm not 11:07:44
4 sure that all the due diligence, you know, would have 11:07:47
5 worked out in such a way that we would actually, you 11:07:49
6 know, come to binding terms. 11:07:53

7 Q. Do you think it's unlikely that you would have 11:07:55
8 reached binding terms? 11:07:57

9 A. You know, that's subject to what National 11:08:00
10 wanted to do. I mean, I can't say whether it's likely 11:08:06
11 or not. 11:08:09

12 Q. If National had decided to stick with the 11:08:09
13 terms as set forth in the RFP transmitted to you on 11:08:14
14 July 20th and then again on July 23rd, is it fair to say 11:08:18
15 that it's unlikely you would have reached binding terms? 11:08:23

16 A. Can you restate that again? 11:08:27

17 Q. Sure. 11:08:28

18 Let's assume that National was not willing to 11:08:30
19 change any of the terms set forth in the RFP transmitted 11:08:35
20 to you on July 23rd, 2010. 11:08:40

21 A. If they were not willing to. 11:08:42

22 Q. If National was not willing to alter those 11:08:45
23 terms, is it unlikely you would have reached a 11:08:47
24 binding -- 11:08:50

25 A. It is unlikely that we would have reached any 11:08:50

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1	terms if they were not willing to accept what we had	11:08:53
2	proposed.	11:08:55
3	MS. COX: Let's go off the record.	11:09:00
4	THE VIDEOGRAPHER: This marks the end of	11:09:00
5	tape number one. We're going off the record. The time	11:09:01
6	now is 11:09 a.m.	11:09:04
7	(Off the record.)	11:09:07
8	THE VIDEOGRAPHER: Here begins tape	11:10:54
9	number two of the videotaped deposition of Charles	11:11:35
10	Lorio. On the record. Time now is 11:12 a.m.	11:11:45
11	Q. Mr. Lorio, I'll just direct you to the last	11:11:41
12	page of Exhibit -- that is the declaration -- it's the	11:11:44
13	Bates number Petrus 000147 -- and ask you your view of	11:11:51
14	the accuracy of paragraph number 11. If you could go	11:11:57
15	through it sentence by sentence, that would be helpful.	11:12:01
16	A. So, you know, we did not issue a nonbinding	11:12:04
17	term sheet. We, you know, were considering purchasing a	11:12:12
18	747, you know, subject to a lease to National Air Cargo	11:12:24
19	under terms that, you know, we had proposed but not	11:12:27
20	under a term sheet. But I can't say that it was more	11:12:31
21	likely than not that we proposed to purchase one or an	11:12:34
22	additional one.	11:12:40
23	Q. Is one of the reasons -- without getting into	11:12:45
24	any privileged area, is one of the reasons you decided	11:12:49
25	not to sign the declaration is because it was.	11:12:52

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1 inaccurate? 11:12:54

2 A. You know, at the time, I don't recall, you 11:12:56
3 know, getting into the declaration and how accurate it 11:13:01
4 was. You know, it was -- we kind of looked at it 11:13:04
5 originally as do I, you know, want to provide and get 11:13:10
6 into the middle of a dispute in the first place. 11:13:13

7 Q. I just want to back up and -- and talk 11:13:16
8 globally just for a minute. 11:13:22

9 This case -- have you read the complaint in 11:13:24
10 this case? 11:13:27

11 A. I, yeah, read through the complaint. 11:13:27

12 Q. What is your understanding of the gist of the 11:13:29
13 case? 11:13:32

14 A. That Global BTG and Jacob Hodges believe they 11:13:34
15 had a deal with National Air Cargo to provide financing 11:13:38
16 for several, you know, 747 aircraft. And shortly after 11:13:44
17 they were signed up on that agreement and they started 11:13:51
18 pursuing, you know, investors or financiers for those -- 11:13:54
19 for those aircraft for National, that National then, you 11:13:59
20 know, terminated that agreement and pursued financing 11:14:04
21 from elsewhere. 11:14:11

22 Q. And do you remember seeing Perot Investments 11:14:12
23 mentioned in the complaint? 11:14:16

24 A. Yes, I believe we were mentioned in the 11:14:19
25 complaint. 11:14:22

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(Signature of the Witness)

THE STATE OF _____
COUNTY OF _____

Subscribed and sworn to before me by the said
witness, CHARLES JOSEPH LORIO, on this the _____
day of _____, 2012.

Notary Public in and for the
State of _____
County of _____

My commission expires: _____

1 STATE OF TEXAS)

2 COUNTY OF DALLAS)

3
4 I, Michelle L. Munroe, Certified Shorthand Reporter
5 in and for the State of Texas, certify that the
6 foregoing deposition of CHARLES JOSEPH LORIO was
7 reported stenographically by me at the time and place
8 indicated, said witness having been placed under oath by
9 me, and that the deposition is a true record of the
10 testimony given by the witness.

11 I further certify that I am neither counsel for nor
12 related to any party in this cause and am not
13 financially interested in its outcome.

14 Given under my hand on this the 12th day of

15 June, 2012

16
17
18
19
20 Michelle L. Munroe
21 Michelle L. Munroe, CSR No. 6011
22 Commission expires 12-31-13
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25 Original deposition sent to Mr. Daniel Gold on
June 12, 2012 for signature.